

**Submission to the Northern Ireland Assembly Committee for Health
May 2021**

The Pro Life Campaign (hereafter referred to as “the PLC”) welcomes the opportunity to make this submission to the Northern Ireland Assembly Committee for Health on the *Severe Fetal Impairment Abortion (Amendment) Bill*. We represent people concerned about the right to life all over the island of Ireland.

The PLC is a non-denominational lobby group which draws its support from a cross-section of Irish society. We promote the right to life, and defend human life at all stages.

In the course of its work in the monitoring and advancement of human rights law in Ireland, the PLC has sought at all times to ensure that the dignity and innate worth of every human being is recognised and defended, regardless of age, creed, ability or social standing.

We have been to the forefront of contributing to the ongoing debate on the human rights of all members of society for over 30 years.

We make this submission in support of the Severe Fetal Impairment Abortion (Amendment) Bill.

There are three principal reasons why this bill should be supported, and this submission will offer a brief outline of each one:

- 1) The bill would remedy discrimination that currently exists in law.
- 2) The bill is fully compatible with national and international human rights obligations.
- 3) The bill would continue the progress made in relation to disability rights and inclusion over the past number of decades.

1) Discrimination

The current law is blatant discriminatory towards people with non-fatal disabilities, such as Down Syndrome.

The operation of a nearly identical provision in law in England and Wales has led to a situation where over 90% of unborn babies diagnosed with Down Syndrome have their lives ended before they are born.¹ Deliberately denying someone their right to life on the basis of their disability is clearly discriminatory.

¹ The National Down Syndrome Cytogenetic Register for England and Wales: 2013 Annual Report

In addition, under the above mentioned provision in England and Wales in 2019, 3,183 babies with disabilities were aborted.²

Disability rights campaigner, Heidi Crowter, who herself has Down Syndrome describes the discrimination inherent in Northern Ireland's current law: *"It tells me that I am not equal to other people, not worthy of the same level of legal protection as someone who does not have Down's Syndrome or a similar non-fatal disability."*³

The current law fuels prejudice towards people with disabilities, as parents of preborn children with disabilities feel pressure to abort their baby on the basis of his or her disability. Emma Mellor is one such parent. Following the discovery that her unborn child had a disability, she said that: *"From that moment on, they recommended we should terminate and told us to think about the effect on our son and his quality of life."*

The pressure she felt under was such that:

*"In all honesty we were offered 15 terminations, even though we made it really clear that it wasn't an option for us, but they really seemed to push and really seemed to want us to terminate,"*⁴

2) Human Rights Law

The UN Committee on the Rights of Persons with Disabilities has stated clearly that abortion on the basis of disability is wrong.

*"Laws which explicitly allow for abortion on grounds of impairment violate the Convention on the Rights of Persons with Disabilities (Art. 4,5,8) ... Even if the condition is considered fatal, there is still a decision made on the basis of impairment. Often it cannot be said if an impairment is fatal. Experience shows that assessments on impairment conditions are often false. Even if it is not false, the assessment perpetuates notions of stereotyping disability as incompatible with a good life."*⁵

The UN Committee on the Elimination of Discrimination against Women has also emphasised that national abortion laws should not target and discriminate against people with disabilities:

*"States parties are obligated to ensure that women's decisions to terminate pregnancies on this ground do not perpetuate stereotypes towards persons with disabilities."*⁶

²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/891405/abortion-statistics-commentary-2019.pdf

³ Heidi Crowter Open Letter - <https://www.newsletter.co.uk/news/people/send-message-all-lives-are-valued-call-anti-abortion-campaigner-ahead-stormont-motion-2869879>.

⁴ <https://www.bbc.com/news/uk-england-beds-bucks-herts-51658631>.

⁵ Committee on the Rights of Persons with Disabilities: Comments on the draft General Comment No36 of the Human Rights Committee on article 6 of the International Covenant on Civil and Political Rights

⁶ Committee on the Elimination of Discrimination against Women - 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 para 62

In its significant ruling in 2018 concerning Northern Ireland's abortion law, the UK Supreme Court did not find that NI's laws breached the European Convention on Human Rights owing to the then prohibition of abortion for serious but non-fatal disabilities.

Lord Mance in his judgement held that:

*"But 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 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"*⁷

Lord Kerr noted in his judgement that

*"many children born with disabilities, even grave disabilities, lead happy, fulfilled lives. In many instances they enrich and bring joy to their families and those who come into contact with them. Finally, the difficulty in devising a confident and reliable definition of serious malformation is a potent factor against the finding of incompatibility. For these and the other reasons given by the judge, I would refuse to make a declaration of incompatibility in the case of serious malformation of the foetus."*⁸

It is clear that Northern Ireland is under no obligation provide for abortions on the basis of non-fatal disabilities. On the contrary, multiple human rights bodies have said that abortion on these grounds is highly discriminatory and incompatible with human rights obligations.

3) Undermining of Disability Right Progress

If the current law continues (as introduced in 2020) it will undermine decades of progress on disability rights issues in Northern Ireland.

Over 2000 people with Down Syndrome and their families signed an open letter asking that disability selective abortion would not be introduced in NI. They informed Prime Minister Boris Johnson that:

*"If your Government do not ensure that a provision is in place to prevent the introduction of abortion for Down's syndrome, you will be directly responsible for introducing a deeply discriminatory law to Northern Ireland that will allow for babies with Down's syndrome to be chosen for abortion simply because they are found to have the condition. This seems archaic in a culture where we embrace our differences and no longer treat people with disabilities as second-class citizens."*⁹

The similar provision in British law from which NI's disability selective provision is derived, is from another era, in which disability discrimination was rife.

Thankfully attitudes towards people with disabilities have radically altered in recent years, as evidenced by the various pieces of positive legislation passed such as:

-the Disability Discrimination Act 1995;

⁷ In the matter of an application by the Northern Ireland Human Rights Commission for Judicial Review (Northern Ireland) [2018] UKSC 27 at para 133.

⁸ Ibid at 332.

⁹ <https://dontscreenusout.org/boris/>

- the Northern Ireland Act 1998 and;
- the Disability Discrimination (Northern Ireland) Order 2006.

The introduction of Regulation 7(b) of the The Abortion (Northern Ireland) (No. 2) Regulations 2020 was a highly regressive step. Abortion up until birth on the basis of disability is now legal, and this is not the case for a healthy foetus. This new scenario now totally undermines the value placed on people with disabilities.

Conclusion

It is for the above reasons that we call on the Committee to support this Bill.

- 1) The bill would remedy discrimination that currently exists in law.
- 2) The bill is fully compatible with national and international human rights obligations.
- 3) The bill would continue the progress made in relation to disability rights and inclusion over the past number of decades.