



# ULSTER UNIVERSITY PRO-CHOICE SOCIETY

EVIDENCE SUBMISSION

NORTHERN IRELAND ASSEMBLY

HEALTH COMMITTEE

SEVERE FETAL IMPAIRMENT PRIVATE MEMBER'S BILL

6<sup>TH</sup> MAY 2021

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To whom it may concern,

I am writing on behalf of Ulster University Pro-choice Society with reference to the Severe Fetal Impairment (Amendment) Bill.

We are a pro-choice organisation within Ulster University, and we advocate for and support the rights of women and pregnant people in Northern Ireland and beyond. This includes the support of evidence-based, non-stigmatising information regarding the access of reproductive healthcare.

### **Context**

This Bill has been subject to misinformation and has once again seen women and pregnant people having to bare their souls and become retraumatised due to the nature of the debates that have been held around it. The terminology used within such debates have been provocative and have used the phrase “abortion for disability” which is not legally or medically correct. The phrase used for terminations for severe fetal impairment is known as “termination for medical reasons”.

We know from robust surveys that the majority (67%)<sup>[1]</sup> of people in Northern Ireland support abortion in the case of severe fetal impairment/fatal fetal abnormalities. A majority (70%)<sup>[2]</sup> also believe that abortion should not be a matter of criminal law and should be in the domain of medical regulation..

This bill will not achieve the aims of Paul Givan MLA and other supporters to stop abortions. This Bill will however continue Northern Ireland’s shameful tradition of exporting women and pregnant people in their time of need to England or further afield.

Statistics from England and Wales indicate that abortions over 24 weeks accounted for only 0.1% of all procedures <sup>[3]</sup>, meaning that this Bill targets a minority of people and families who will experience much wanted but complex pregnancy scenarios.

Paul Givan MLA has inaccurately suggested that Clause 1 will increase or pressure women and pregnant people to seek abortions for pregnancies in cases of uncomplicated Down’s Syndrome, cleft lip /palate, and club foot. This is an inaccurate and misleading claim and only adds to the pervasive stigma that is felt by the women and families who have sought abortions for much wanted but complex pregnancies.

Ultimately, this bill will put pressure on women to make healthcare decisions before 24 weeks gestation. Preventing abortion access beyond 24 weeks for severe fetal impairments is ill-considered and cruel. Most severe fetal impairments are often only detected at the 20-week scan (or later) which leaves a short period of time for women and their families to seek advice from healthcare professionals and make decisions about their health. In addition, despite this Bill being mooted as a protection for disabled people, it in fact erases and victimises disabled people who also need access to reproductive healthcare.

Legal cases such as those brought forward by Sarah Ewart are tragic testimonials of the experiences of people who restricted abortion access has impacted in the cruellest way.

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[1] <https://www.amnesty.org.uk/abortion-poll-research-majority-people-northern-ireland-want-decriminalise>

[2] <http://www.ark.ac.uk/publications/updates/update115.pdf>

[3] [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/891405/abortion-statistics-commentary-2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/891405/abortion-statistics-commentary-2019.pdf)

## **CEDAW**

The amendment to the bill is against the recommendations made after the CEDAW 2018<sup>[4]</sup> report. Forcing women and pregnant people to travel for essential health care is a breach of international minimal human rights standards. Relevant sections of the CEDAW report have been incorporated in Section 9 of the Northern Ireland (Executive Formation etc) Act 2019 which also repealed sections 58 and 59 of the Offences Against the Person Act 1861, decriminalising abortion.

The UN-CEDAW 2018 report called for abortion in the case of severe fetal impairment, to include fatal fetal abnormalities, and this is required to be implemented 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.

## **Great Britain and Ireland**

Northern Ireland will once again be left behind if abortion for the reason of severe fetal Impairment is removed from legal provision in Northern Ireland. Women and pregnant people from Northern Ireland are provided with funded abortion care when they are required to travel to GB. However, by forcing women to travel, they are being removed from their community where they have support from family and their healthcare team and will therefore, have reduced referral pathways for aftercare.

There are many screening opportunities available in the rest of Great Britain before 24 weeks including within the first trimester. However, the main anomaly scan occurs at around 20 weeks. If an anomaly is detected it can often take further scans/test which take additional time and can leave women close to or beyond 24 weeks gestation.

We need only look to Ireland to see the impact of restricting abortion provision to 'fatal' rather than 'severe' abnormalities. Figures published by Westminster show that while abortions for people normally resident in Ireland decreased by 87%<sup>[5]</sup> overall following the change in legislation, the proportion of abortions performed under 'Ground E' increased.

Well over 100 women were left without local care after receiving a SFI diagnosis in Ireland in 2019.

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[4] CEDAW/C/OP.8/GBR/1 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.

[5][https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/891405/abortion-statistics-commentary-2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/891405/abortion-statistics-commentary-2019.pdf)

## **Travel**

Funded abortion care provides a much-needed safety net for many women who must travel to seek abortions. Forced travel should not be the only option available to women. Many women and pregnant people will be unable to travel to seek the abortion care that they are legally entitled to. There are many barriers to travel for healthcare such as underlying health conditions or disabilities, coercive relationships, insecure immigration status and lack of childcare arrangements. Travel has also been incredibly risky during the current COVID-19 pandemic and women and pregnant people should not have to weigh up such risks against their own health requirements.

Terminations for severe fetal impairment are usually undergone for a much-wanted pregnancy. People who are undergoing fertility treatment or who have had to have terminations for medical reasons may wish to have a post-mortem which would have to be undertaken in England. Moreover, people may want to have a burial or cremation. This adds additional stress for the pregnant person and their families as they will have to make arrangements for travelling home with the remains – this may be an additional financial and emotional burden on the women and her family. This is a decision no one should have to make.

In 2016 former paediatric pathologist Dr Gannon resigned stating that the final straw was having to advise a couple to use a picnic cooler bag to return their baby's remains to NI following a late-term abortion in England. [6]

After an abortion, women should be entitled to the same level of support and aftercare that is required after most medical procedures. Women should be able to access the appropriate aftercare to include mental health support within their own communities alongside the midwives and healthcare staff who have supported them throughout the number of weeks leading up to their termination.

## Healthcare Professionals

It is often difficult for medical professionals to provide an accurate prognosis as to whether a condition would be fatal or severe <sup>[7]</sup>. Legal definitions of severity of foetal anomaly are often unclear and difficult to determine, leaving medical staff to interpret the law while also being subject to potential criminalisation. This diverts doctors focus from caring for their patients, in many cases making them feel unable to provide care due to legal uncertainty.

A report by the Royal College of Obstetricians and Gynaecologists (RCOG), Royal College of General Practitioners (RCGP), Royal College of Midwives (RCM), British Paediatric Association, the British Medical Association and the Clinical Genetics Society clearly stated that, *“it would be inhumane to these mothers, their babies and families to insist on the continuation of a pregnancy when the foetus was known to be seriously abnormal”*.<sup>[8]</sup>

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<sup>[6]</sup><https://www.belfasttelegraph.co.uk/news/uk/doc-who-told-ni-parents-to-put-dead-baby-in-picnic-cooler-bag-quits-over-abortion-interventions-35048334.html>

<sup>[7]</sup> <https://bmjopen.bmj.com/content/bmjopen/7/5/e014716.full.pdf>

<sup>[8]</sup> Royal College of Obstetricians and Gynaecologists, Royal College of Midwives, Royal College of General Practitioners, British Medical Association, British Paediatric Association, Clinical Genetics Society. *Report on the advantages and disadvantages of imposing an 18 week gestational age limit on legal abortion*. 27 November 1987: para 3.1.

## Disability Rights

Disability rights need not be pitted against reproductive rights, indeed disabled people also need to have access to reproductive rights.

It is essential to note that the Committee on the UN Convention on the Rights of People with Disabilities (CRPD), with the CEDAW Committee, has emphasised that using disability rights as an argument to oppose safe abortion is a misinterpretation of the Convention on the Rights of Persons with Disabilities. The statement stresses:

*‘that disability rights and gender equality are two components of the same human rights standard that should not be construed as conflicting, and clarifies that States must take effective measures to enable women, including women with disabilities, to make autonomous decisions about their sexual and reproductive health and ensure that women have access to evidence-based and unbiased information in this regard. It also underlines as a critical issue that all women, including women with disabilities, are protected against forced abortion, contraception or sterilisation against their will or without their informed consent.’<sup>[9]</sup>*

CEDAW and CRPD Committees (August 2018). ‘Guaranteeing sexual and reproductive health and rights for all women, in particular women with disabilities’: Joint statement by the Committee on the Rights of Persons with Disabilities (CRPD) and the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW)

UN-CEDAW in their remarks also referred to UN-CRPD saying

*‘While the Committee consistently recommends that abortion on the ground of severe fetal impairment be available to facilitate reproductive choice and autonomy, States parties are obligated to ensure that women’s decisions to terminate pregnancies on this ground do not perpetuate stereotypes towards persons with disabilities.’<sup>[10]</sup>*

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<sup>[9]</sup> CEDAW and CRPD Committees (August 2018). ‘Guaranteeing sexual and reproductive health and rights for all women, in particular women with disabilities’: Joint statement by the Committee on the Rights of Persons with Disabilities (CRPD) and the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW)

<sup>[10]</sup> CEDAW/C/OP.8/GBR/1 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

## **Conclusion and Recommendations**

To conclude we support organisations such as the Royal College of Obstetricians and Gynaecologists and Doctors for Choice Northern Ireland alongside Alliance for Choice in the condemnation of this Bill which is neither rooted in fact nor best practice healthcare for women in Northern Ireland.

By removing CEDAW recommendations from the current legislation, Stormont will open to legal action as this would contradict the measures put in place to prevent further breaches of human rights.

We recommend that rather than rolling back abortion provision in Northern Ireland Stormont should focus their efforts on:

1. Improving perinatal care – to include comprehensive mental health support and extending screening programmes for pregnant people in line with the rest of GB.
2. Supporting disabled children and their families – to include provision of adequate health, social care and welfare.

3. Commissioning high-quality abortion services laid out within The Abortion (Northern Ireland) (No 2.) Regulations 2020. This includes education, funding and public health information on abortion.
4. Providing guidance and support for health care professionals on advice and pathways that they can offer for those who may need access to an abortion.
5. Participating in the destigmatisation of abortion by using the correct terminology in any further debates and ensuring the lives and experiences of women and pregnant people in Northern Ireland are respected.
6. Introducing safe access zones to allow women and pregnant people to access health care clinics without fear of harassment, shame or retraumatisation.

Yours sincerely,

Ulster University Pro-choice Society