

Alliance for Choice

Jim Wells Proposed Amendments to the Justice Bill from the Department of Justice: Amendment, New Clause 'Ending the life of an unborn child'

Alliance for Choice Response

Key Concerns

The proposed amendment as currently drafted disregards the law and international human rights standards across a number of areas such as:

- The 1967 Abortion Act, permits abortions to be carried out only in England, Scotland and Wales. Exclusion from this legislation in Northern Ireland means that the issue of abortion continues to be governed by confusing and threatening legal ambiguity.¹
- The exclusion of Northern Ireland from the 1967 Abortion Act and the continuing criminalisation of women from Northern Ireland seeking abortions denies them: equal entitlement to healthcare; and equal protection of the law enjoyed by their British counterparts;²
- The legal status given in the amendment to the 'unborn child' is a non-existent legal term in the UK³. Most recently the Chair of the UN Human Rights Committee, commenting at the conclusion of Ireland's fourth periodic examination by the Committee of its human rights record stated: "the recognition of the primary right to life of the woman who is an existent human being has to prevail over that of the unborn child and I can't begin to understand by what belief system the priority would be given to the latter rather than the former."⁴

We are also concerned that the purpose of the amendment, to restrict access to abortion to NHS premises, has serious implications for those who may seek an abortion. **In seeking to restrict access to abortions on NHS premises in Northern Ireland would likely result in an increase in those travelling outside of Northern Ireland.** The extremely negative reaction from professional bodies to the

¹ Bloomer, F and Fegan, E (2014) 'Critiquing Recent Abortion Law and Policy in NI' *Critical Social Policy* 34: 109-120; Fpani, Alliance for Choice, NIWEP 2010, *Submission of Evidence to the CEDAW Committee Optional Protocol: Inquiry procedure*. fpani, Belfast.

² Bloomer, F & O'Dowd, K (2014) 'Restricted access to abortion in the Republic of Ireland and Northern Ireland: exploring abortion tourism and barriers to legal reform' *Culture, Health & Sexuality: An International Journal for Research, Intervention and Care* 16 (4):366-380

³ Several legal cases in UK courts have attested to this point, for instance: R v Tait [1990] CA Threat to kill unborn child to pregnant woman not a threat to kill a third person within meaning of s16 OPA 1861, Foetus not a third person distinct from its mother;

⁴ <http://www.iccl.ie/news/2014/07/15/iccl-wholeheartedly-endorses-coruscating-un-comments-on-ireland-.html>

Dept. of Health draft guidelines was testament to the reluctance of professionals to provide abortion on NHS in Northern Ireland⁵.

Financial Costs:

- The current high cost encountered by women in Northern Ireland in obtaining an abortion outside of the jurisdiction is clearly placing the UK in violation of the right to health. This service for women in England, Scotland and Wales is provided under the National Health Service, in that it is provided to the vast majority of women free of charge. Women from Northern Ireland, however, despite being UK citizens and paying the same fiscal taxes, have to access abortion services through the private sector and also must pay for travel and accommodation.⁶ More individuals are likely to be placed in this category if the amendment proceeds. **The financial burden of travelling outside of Northern Ireland to access an abortion is experienced more by those living in poverty and they will therefore be unjustly affected by the restrictions.**

Emotional Consequences

- The strong anti-choice socialisation process that pervades Northern Ireland churches, schools and the political sphere makes choosing to have an abortion a more emotional decision for Northern Ireland women. Being forced to leave one's own country because abortion is defined as a criminal act, and being called 'murderers' by politicians and protestors stigmatises these women as criminals and inevitably leaves them with emotional scars which many of their British counterparts are spared.⁷ **The stigma experienced by those obtaining abortions will thus likely increase as a result of the proposed restrictions.**

⁵ BBC 2013 *Draft abortion guidelines 'causing fear among NI health staff'* [Homepage of BBC], [Online]. Available: <http://www.bbc.co.uk/news/uk-northern-ireland-24550586>.

⁶Fpani, Alliance for Choice, NIWEP 2010, *Submission of Evidence to the CEDAW Committee Optional Protocol: Inquiry procedure*. fpani, Belfast. Bloomer, F & O'Dowd, K (2014) 'Restricted access to abortion in the Republic of Ireland and Northern Ireland: exploring abortion tourism and barriers to legal reform' *Culture, Health & Sexuality: An International Journal for Research, Intervention and Care* 16 (4):366-380

⁷ Fpani, Alliance for Choice, NIWEP 2010, *Submission of Evidence to the CEDAW Committee Optional Protocol: Inquiry procedure*. fpani, Belfast; Boyle, M. & McEvoy, J. 1998. Putting abortion in its social context: Northern Irish women's experiences of abortion in England *Health*, 2, 283-304; for wider discussions on legal restrictions on abortion and stigma, Norris, A., Bessett, D., Steinberg, J.R., Kavanaugh, M.L., De Zordo, S. and Becker, D. (2011). Abortion Stigma: A Reconceptualization of Constituents, Causes, and Consequences. *Women's Health Issues*, 21 (3), Supplement, S49–S54.

Public Opinion

There have been repeated calls by various International human rights committee's to have public consultation on reforming the law in Northern Ireland in relation to abortion⁸. Whilst this has yet to happen public polls by regional newspapers have indicated an appetite for legal reform to improve access not restrict it.⁹ **The proposed amendment ignores calls on international bodies and is not in line with public opinion.**

In summary we would contend that the proposed amendment is a clear example of discrimination against those seeking abortions, a further example of secondary status of women in Northern Irish society prevalent within the Northern Ireland Assembly¹⁰. We note that in relation to similar situation in Ireland the Ireland rapporteur on the Human Rights committee, Yuval Shany, said a majority vote in parliament could not be used to deny human rights to a section of society. To do so would amount to the "tyranny of the majority".¹¹

⁸ Committee on the Elimination of Discrimination against Women (CEDAW) 2013, *Concluding observations on the seventh periodic report of the United Kingdom of Great Britain and Northern Ireland*, United Nations, Geneva. Committee on the Elimination of Discrimination against Women (CEDAW) 2008, *Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland*, United Nations, Geneva. Committee on the Elimination of Discrimination against Women (CEDAW) 1999, *Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland*, United Nations, Geneva. United Nations Human Rights Council, 2012 Report of the Working Group on the Universal Periodic Review - United Kingdom of Great Britain and Northern Ireland. New York: United Nations United Nations Committee on Economic, Social and Cultural Rights, 2009 General Comment No. 20. New York: United Nations UN Doc. E/C.12/GC/20, (CESCR General Comment No. 20).

⁹ Rutherford, M (2012) Just one in five believe rape victims should not be allowed an abortion. *Belfast Telegraph* 30 August;

¹⁰ Horgan, G. & O'Connor, J.S. 2014, "Abortion and Citizenship Rights in a Devolved Region of the UK", *Social Policy and Society*, , pp. 1-11.

¹¹ <http://www.irishtimes.com/news/crime-and-law/courts/irish-women-are-being-denied-human-rights-says-un-report-1.1877329>