

Status of Human Rights in Ireland for the 39th Session of the Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting and protecting human rights around the world. The ECLJ holds Special Consultative Status before the United Nations Economic and Social Council. The purpose of this report is to raise concerns regarding human rights in the Republic of Ireland (Ireland) for the 39th Session of the Universal Periodic Review (UPR).

Background

2. Ireland is a western European country with an estimated population of 4.9 million people¹. The population of Ireland is predominately Christian with approximately 78.3% of the population identifying as Roman Catholic, 9.8% as none, 2.7% as Church of Ireland, 2.6% as unspecified, 1.6% as other Christian, 1.3% as Orthodox Christian, and 1.3% as Muslim².

3. Ireland's previous review was held on 11 May 2016. As a result of the review, 262 recommendations were made, out of which 187 were supported by Ireland³. Many countries recommended that Ireland "[t]ake forward the democratic process of repealing the Eighth Amendment of the Irish Constitution with a clear timeline, and take all necessary steps to decriminalise abortion in all circumstances, in accordance with the recommendations of the Human Rights Committee, the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child"⁴. Sadly, Ireland took note of this recommendation and has undertaken legislative measures to expand the practice of abortion within the country.

Legal Framework

4. In 1983 Ireland passed an amendment to the Constitution which established the equal right to life of the unborn. Under the 8th Amendment of the Constitution:

The State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right⁵.

5. However, in 2018 the government repealed this language granting equal right to life to the unborn, and passed The Health (Regulation of Pregnancy) Act 2018 ("Health Act") which greatly expanded access to abortion. Further, the Health Act made "available without certain charge certain services to women for the purpose of termination of pregnancy in accordance with this Act"⁶. In addition, under Section 12 of the Health Act, abortions are permitted up until 12 weeks after a three-day waiting period⁷.

6. Under Article 6 of the Convention on the Rights of the Child (CRC), to which Ireland is a party:

1. State Parties recognize that every child has the inherent right to life.
2. State Parties shall ensure to the maximum extent possible the survival and development of the child⁸.

7. Furthermore, under article 6 of the International Covenant on Civil and Political Rights (ICCPR) “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life”⁹.

Abortion in Ireland

8. As previously stated, Ireland has removed language within its constitution that protected the equal right to life of the unborn and has granted access to abortion on request which is available up until 12 weeks, with a three-day waiting period. Still, abortion activists believe that these restrictions are still too strict and are lobbying for abortion on demand to be expanded, as well as removing the waiting period¹⁰.

9. After abortion was fully legalized in Ireland on 1 January 2019, data from Ireland’s Dept of Health showed a massive surge in the number of abortions performed within the country. According to the report, the number of abortions carried out in Ireland in 2019 was 6,666¹¹. This is a drastic increase from the 2,879 abortions carried out in 2018 when abortion was not yet fully legalised¹². It is now reported that when excluding spontaneous miscarriages, 10% of all pregnancies in Ireland end in abortion¹³.

Legality of Abortion World-Wide

10. According to the Center for Reproductive Rights, abortion is accessible to women in 67 countries, with some gestational limitations, the most common of which is a limit on abortions after 12 weeks of pregnancy¹⁴. Fourteen countries allow abortion on “broad social or economic grounds”¹⁵; 56 countries “permit abortion to preserve” the mother’s life or health, including mental health; 39 countries permit abortion only where the mother’s life is at risk. Finally, 26 countries prohibit abortion altogether. Thus, out of the 202 countries discussed, a large majority – 121 countries – have strict limitations on abortion, with the remaining 81 countries that allow varying degrees of limitations on abortion in the minority.

11. Clearly, induced abortion is a controversial topic, and is not viewed favorably in a majority of countries. Moreover, abortion laws and regulations in specific countries are not clear cut, but are complicated and complex. In many countries where abortion is allowed more freely, there are still legal restrictions on government funding of abortion, as well as limits on the reasons for which a woman may have an abortion. As one report notes:

[t]he existence of multiple [abortion] laws for a given country is an additional aspect that contributes to the complexity of comparing abortion laws across countries. Some countries, for example, have enacted special, dedicated abortion laws, while others have developed public health codes or medical ethics codes containing certain provisions that clarify how to interpret an abortion law¹⁶.

12. What most countries do agree on is that the State has an interest, not only in protecting women and girls, but also in protecting the lives of all their citizens – including the unborn¹⁷. This interest is enshrined in national and international documents alike, as well as through the legislation of individual countries.

13. For instance, the Universal Declaration of Human Rights (UDHR) recognizes that “the inherent dignity and . . . equal and inalienable rights of *all* members of the human family is the foundation of freedom, justice and peace in the world,” and that *[e]veryone* has the right to life . . .”¹⁸. Again, Article 6 of the ICCPR likewise states that “*[e]very* human being has the inherent right to life. [And that this] right shall be protected by law”¹⁹. It is important to note that while many international treaties contain provisions for the protection and promotion of the right to life, not one contains a “right to abortion.”

Abortion is Dangerous for Women

14. Abortion is one of the gravest of all offenses against human life and against justice because it entails the deliberate killing of an innocent human being. A procedure that deliberately takes the life of a live human being, is plainly a procedure that fosters insensitivity to, and disdain for, the life in the womb. Indeed, such a killing is the embodiment of disregard for human life.

15. Published research strongly indicates that abortion, rather than being safe – even safer than childbirth as most pro-abortion advocates falsely claim – is in fact more dangerous.

16. In Finland, for example, researchers drew upon national health care data to examine the pregnancy history of all women of childbearing age who died, for any reason, within one year of childbirth, abortion, or miscarriage, between the years of 1987 and 1994 (a total of nearly 10,000 women). The study found that, adjusting for age, women who had abortions were 3.5 times more likely to die within a year than women who carried to term²⁰.

17. A subsequent study based upon Medicaid records in U.S. State, California, likewise found significantly higher mortality rates after abortion. The study linked abortion and childbirth records in 1989 with death certificates for the years 1989-97. This study found that, adjusting for age, women who had an abortion were 62% more likely to die from any cause than women who gave birth²¹.

18. Yet another study, this one of nearly a half million Danish women, found that the risk of death after abortion was significantly higher than the risk of death after childbirth²². The study specifically examined both early (before 12 weeks’ gestation) and late (after 12 weeks’ gestation) abortions, and found statistically significantly higher death rates for both groups as compared to mortality after childbirth.

19. A more recent meta-analysis of nearly 1000 studies concluded that a woman’s risk of premature death increases by 50% after having an abortion, and that this lethal effect lasts at least ten years²³.

20. Of course, abortion can also cause physical harm, beyond the harm (i.e., death) to the unborn child. This can result directly from the procedure itself (e.g., perforation of the uterus, laceration of the cervix), from the deprivation of the health benefits of continuing pregnancy (e.g., eliminating the protective effect of a full-term pregnancy against breast cancer)²⁴, or by

masking other dangerous symptoms (e.g., a woman with an infection or an ectopic pregnancy may believe her symptoms are merely normal after-effects of abortion, leading her to delay seeking medical help)²⁵.

21. The Finland and California studies mentioned above both showed, *inter alia*, a heightened risk of suicide after abortion²⁶. (The Danish study did not examine this aspect.) A British study found the same thing²⁷. All these studies are consistent with the many studies documenting adverse emotional consequences after abortion²⁸.

22. Furthermore, another U.S. study revealed that

58.3% of the women reported aborting to make others happy, 73.8% disagreed that their decision to abort was entirely free from even subtle pressure from others to abort, 28.4% aborted out of fear of losing their partner if they did not abort, 49.2% reported believing the fetus was a human being at the time of the abortion, 66% said they knew in their hearts that they were making a mistake when they underwent the abortion, 67.5% revealed that the abortion decision was one of the hardest decisions of their lives, and 33.2% felt emotionally connected to the fetus before the abortion²⁹.

23. In that same study, the women were asked what positives stemmed from their decision to abort. Twenty-two percent of the women chose not to answer this question, while 31.6% responded by choosing the survey answer as “none”³⁰.

24. When asked about the most significant negatives that had impacted them from the decision to abort, women listed the following:

- Took a life/loss of a life of lives
- Depression
- Guilt/Remorse
- Self-hatred/anger at self/self-loathing/feelings of worthlessness/unworthy of love
- Shame
- Addiction, alcohol or drug abuse
- Regret
- Self-destructive behaviors including promiscuity, self-punishment, and poor choices
- Low self-esteem
- Anxiety/fear
- Suicidal/suicidal thoughts/wanting to die/self-harm/dangerous risks/suicidal attempts³¹

25. All of these factors contribute to the repugnant nature of abortion and to the reasons why countries should have protections in place for the lives of the unborn.

26. It is an indisputable scientific fact that the human child in the womb is a distinct biological organism, is alive, and belongs to the species *homo sapiens*. Thus, any justification of abortion (aside from the extremely rare life vs. life situations where a mother is at serious risk of dying from continuing the pregnancy) fundamentally rests on the proposition that some members

of the human race do not have even the most basic of human rights, the right to life. That proposition is incompatible with international law and the very notion of human rights found in documents such as the ICCPR. The ICCPR states: “*of the inherent dignity and of the equal and inalienable rights of **all members of the human family*** is the foundation of freedom, justice and peace in the world, [that] these rights derive from the ***inherent dignity of the human person***, . . . [and that] **every human being has the inherent right to life**. This right shall be protected by law”³².

Conclusion

27. It is critical that Ireland reinstate its constitutional protections for the lives of the unborn, and to restrict abortion in an effort to protect vulnerable women as well as unborn children from the harmful and deadly effects of abortion.

¹ *Ireland Population 2021 (Live)*, WORLD POPULATION REVIEW, available at <https://worldpopulationreview.com/countries/ireland-population>.

² *Ireland Religions*, INDEX MUNDI, available at <https://www.indexmundi.com/ireland/religions.html>.

³ UPR of Ireland – Thematic List of Recommendations, A/HRC/33/7 Add. 1, available at <https://www.ohchr.org/EN/HRBodies/UPR/Pages/IEIndex.aspx>.

⁴ *Id.*

⁵ Eighth Amendment of the Constitution Act, 1983, available at <http://www.irishstatutebook.ie/eli/1983/ca/8/enacted/en/print#sec1>.

⁶ Health (Regulation of Termination of Pregnancy) Act 2018, available at <https://data.oireachtas.ie/ie/oireachtas/act/2018/31/eng/enacted/a3118.pdf>

⁷ *Id.*

⁸ CONVENTION ON THE RIGHTS OF THE CHILD art. 6, available at <https://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>.

⁹ International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, art. 6.

¹⁰ *One Year On, It's Clear That the New Irish Abortion Services Have Serious Limitations*, THE CONVERSATION, available at <https://theconversation.com/one-year-on-its-clear-that-the-new-irish-abortion-services-have-serious-limitations-129491>.

¹¹ *Health (Regulation of Termination of Pregnancy) Act 2018 – Annual Report on Notifications 2019*, DEPARTMENT OF HEALTH (30 Jun. 2020), available at <https://www.gov.ie/en/publication/b410b-health-regulation-of-termination-of-pregnancy-act-2018-annual-report-on-notifications-2019/>.

¹² *New Data Indicate That Abortions Surged in Ireland After Legalization*, NATIONAL REVIEW (2 Jul. 2020), available at <https://www.nationalreview.com/corner/new-data-indicate-that-abortions-surged-in-ireland-after-legalization/>.

¹³ *Republic of Ireland Abortion Statistics*, ABORT 73, available at https://abort73.com/abortion_facts/ireland_abortion_statistics/.

¹⁴ *The World's Abortion Laws*, CENTER FOR REPRODUCTIVE RIGHTS, <https://reproductiverights.org/worldabortionlaws> (last visited 29 Aug. 2020).

¹⁵ *Id.*

¹⁶ *World Population Policies 2017*, Department of Economic and Social Affairs, Population Division, ST/ESA/SER.A/447, United Nations, New York 2020, available at https://www.un.org/en/development/desa/population/publications/pdf/policy/WPP2017/WPP2017_Report.pdf.

¹⁷ *Id.*

¹⁸ Universal Declaration of Human Rights preamble, Art. 3.

¹⁹ ICCPR, *supra* note 9.

²⁰ Mika Gissler, et al., Pregnancy-associated deaths in Finland 1987-1994-definition problems and benefits of record linkage, 76 Acta Obstetrica et Gynecologica Scandinavica 651 (1997).

²¹ David C. Reardon, et al., Deaths Associated with Pregnancy Outcome: A Record Linkage Study of Low Income Women, 95 SO. MED. J. 834 (2002).

²² David C. Reardon & Priscilla K. Coleman, Short and Long Term Mortality Rates Associated with First Pregnancy Outcome: Population Register Based Study for Denmark 1980-2004, 18 MED. SCI. MON. 71 (2012).

²³ David C. Reardon & John M. Thorp, Pregnancy Associated Death in Record Linkage Studies Relative to Delivery, Termination of Pregnancy, and Natural Losses: A Systematic Review with a Narrative Synthesis and Metaanalysis, 5 Sage Open Medicine 1 (2017).

²⁴ See Justin D. Heminger, Big Abortion: What the Antiabortion Movement Can Learn from Big Tobacco, 54 CATH. U.L. REV. 1273, 1288-89 & nn.119 & 121 (2005).

²⁵ See generally *Physical Effects of Abortion: Fact Sheets, News, Articles, Links to Published Studies and More*, THE UNCHOICE, www.theunchoice.com/physical.htm (listing sequelae and referencing sources) (last visited 29 Aug. 2020).

²⁶ See also Mika Gissler, et al., Suicides after Pregnancy in Finland: 1987-94: Register Linkage Study, 313 BRITISH MED. J. 1431 (1996) (suicide rate after induced abortion was six times higher than suicide rate after childbirth).

²⁷ Christopher L. Morgan, et al., Mental Health May Deteriorate as a Direct Effect of Induced Abortion, 314 BRITISH MED. J. 902 (Mar. 22, 1997) (letters section) (found suicide attempts more than four times as frequent after abortion than after childbirth).

²⁸ See David C. Reardon, Abortion Decisions and the Duty to Screen: Clinical, Ethical and Legal Implications of Predictive Risk Factors of Post-Abortion Maladjustment, 20 J. CONTEMP. HEALTH L. & POL'Y 33, 39 n.14 (2003) (citing nearly three dozen sources).

²⁹ Priscilla K. Coleman, Ph.D., et al., *Women Who Suffered Emotionally from Abortion: A Qualitative Synthesis of Their Experiences*, JOURNAL OF AMERICAN PHYSICIANS & SURGEONS, Vol. 22 No. 4, p. 115 (2017), available at <https://www.jpands.org/vol22no4/coleman.pdf>.

³⁰ *Id.*

³¹ *Id.* at 116-17.

³² ICCPR, *supra* note 9.