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**By post and e-mail:
To All Members of the
UN Human Rights Committee
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12th June 2014

RE: 4th Periodic Report of Ireland – list of issues

Dear Committee Members,

We refer to the above and would like to raise a number of issues that affect pregnant people and their family members in Ireland arising from the list of issues published on the website of the Office of the High Commissioner for Human Rights, CCPR/C/IRL/Q/4, 22 November 2013.

We hope that the following comments will further assist the Committee with its examination:

Introduction

The Abortion Rights Campaign (ARC) is a broad-based grassroots movement for choice and change in Ireland. In the face of State inaction on the provision of abortion on the island of Ireland, we are building broad national support for a referendum to repeal Article 40.3.3° of the Irish Constitution; to push for the introduction of extensive abortion legislation by the Northern Ireland Assembly; to highlight and reduce the effects of stigma and shame on people exercising reproductive choice; and to ensure the health and rights of women in pregnancy are protected in line with international human rights standards.

Since its inception, the Abortion Rights Campaign has supported the mobilisation of a grassroots movement to lobby government representatives. We have formed partnerships with social justice, human rights, gender equality and pro-choice groups in Ireland and internationally. As we have seen one of the greatest injustices being the lack of space and time given to the stories of women in and amongst the political debates, we work closely with women who have had abortions to tell their stories in places where they will be listened to and respected. We also draw on the expertise of academics, educators and media producers to broaden the knowledge base of our movement and communicate the issues to a wide audience. In addition, the Abortion Rights Campaign works to educate the public and policymakers about the need for access to free, safe and legal abortion options in Ireland for all who need it, regardless of citizenship or financial capacity, in line with the provision of other basic health-care options. We promote the provision of relevant, up-to-date information to support evidence-based policymaking and to challenge anti-choice rhetoric that threatens reproductive freedom.

Summary

The Irish State has failed to implement previous recommendations of the United Nations Human Rights Committee around abortion and women's health. Current legislation referencing and affecting abortion access within the Irish State is in violation of articles 6, 7 and 26 of the International Covenant on Civil and Political Rights (ICCPR).

The recent re-criminalisation of abortion in almost all circumstances in the Protection of Life During Pregnancy Act 2013 is dangerous, archaic and unnecessary and contravenes human rights norms.

Article 40.3.3° in its actuality and through the State's rigid interpretation prevents women in Ireland from accessing abortion and exercising the full spectrum of human and reproductive rights. A referendum must be called to repeal Article 40.3.3°.

A note on Article 40.3.3°

Any legislation referencing and affecting abortion access in Ireland is restricted by Article 40.3.3° of the Irish Constitution.

The Eighth Amendment to the Constitution of Ireland, namely Article 40.3.3°, signed into law in 1983, equates the right to life of a pregnant woman with that of the 'unborn' embryo or foetus, effectively from the point of implantation. It reads:

'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 right.'

As indicated in the State response to Human Rights Committee issues 12a, 12b and 12c, abortion legislation drafted by the Irish State must adhere to Article 40.3.3° of the Irish Constitution. The Irish State refers to this constitutional provision regularly throughout their responses to the Human Rights Committee.

Article 40.3.3° violates international human rights laws and norms, and State interpretations of it have led to further inhumane legislation. Until it is repealed, the reproductive rights and health of women in Ireland cannot be fully protected.

It should also be noted that the Irish State has taken an extremely conservative approach towards its responsibility to uphold this Article of the Constitution by including in supporting legislation harsh criminal sanctions which are not a constitutional necessity.

Comments on the list of issues

12. Please provide information on:

(a) How the Protection of Life During Pregnancy Act 2013 is in compliance with articles 6 and 7 of the Covenant and the Committee's previous recommendations;

In 2008 the Human Rights Committee recommended that the Irish State 'take measures to help women avoid unwanted pregnancies so that they do not have to resort to illegal or unsafe abortions that could put their lives at risk (article 6) or to abortions abroad (articles 26 and 6)'. ARC maintains that the State has not taken effective steps to implement this recommendation, and domestic legislation remains in violation of the International Covenant on Civil and Political Rights (ICCPR).

Article 6

Article 6 of the ICCPR provides for the right to life. Ireland recently enacted the Protection of Life During Pregnancy Act (PLDPA), which fastened into legislation the existing legal right to an abortion where there is a ‘real and substantial risk’ to the life of a pregnant woman.¹ Although one of the aims of the PLDPA is to protect the right to life of pregnant women, procedurally the PLDPA falls short of doing such.

The Act provides for a termination only on the grounds that there is a ‘real and substantial risk of loss of the pregnant woman’s life’. Any termination performed outside of this criteria falls into the realm of criminality, including a termination performed on the basis of substantial risk to the pregnant woman’s health. This dangerous distinction between life and health places medical practitioners in an extremely difficult position. It creates a risky and dangerous environment where a decision to refrain from performing a ‘health-saving’ termination may result in the mistake of not performing a life-saving one, thus potentially not fully protecting the lives of pregnant women in Ireland.

Article 7

Article 7 of the ICCPR declares the right to be free from cruel, inhumane or degrading treatment. ARC maintains that the restrictive stance on abortion currently provided by the PLDPA and Article 40.3.3° of the Irish Constitution, which forces women to carry unwanted pregnancies (particularly in, but not restricted to, cases of rape, incest, and fatal foetal abnormality), equates to a violation of Article 7 of the ICCPR. The UN Human Rights Committee has made specific recommendations to Ireland to ensure that women are not forced to continue with pregnancies that result in cruel, inhumane or degrading treatment conflicting with State obligations laid out by Article 7 of the ICCPR.² In the cases of *K.L. v. Peru* and *L.M.R. v. Argentina*, the Human Rights Committee previously ruled that the denial of abortion in the case of fatal foetal abnormality and rape (respectively) amounts to a violation of Article 7 of the ICCPR.³

The group Terminations for Medical Reasons (TFMR), together with the Center for Reproductive Rights, is now in the process of filing three separate petitions to the UN Human Rights Committee. The first of these petitions alleges that under Ireland’s abortion laws women who are forced to travel abroad to terminate their often much-wanted but fatally impaired pregnancies are subject to cruel and inhuman treatment.⁴

In cases of risk to life by suicide, under Section 9 of the legislation, three doctors—an obstetrician and two psychiatrists—must agree that a woman’s life is at risk in order for her to access abortion. If she is refused, she may need to access a review panel where a further three doctors will adjudicate on her case. Additionally, given that the first point of care for many pregnant women is their GP, a pregnant woman at risk of suicide could potentially have to deal with seven medical professionals before she is granted an abortion. ICCPR General Comment 20 confirms that Article 7 provides for the protection of the mental integrity of individuals. ARC asserts that the requirement of screening by 3 medical practitioners and the potential screening by 7, amounts to cruel and inhuman treatment of an already vulnerable individual and thus a violation of Article 7 of the ICCPR.

Problematic use of the word ‘unborn’ in State response to 12a

The Protection of Life During Pregnancy Act continues to use the problematic term ‘unborn’, which perpetuates a lack of legal and medical clarity. ARC objects to the use of the term ‘unborn’ and the interpretation of the definition of life as commencing after implantation. It has been documented in case law of international human rights treaties that the right to life as provided by the United Nations Declaration of Human Rights, the ICCPR, the European Convention on Human Rights, etc., is generally understood to apply to a person who exists after birth.

¹ The Protection of Life During Pregnancy Act 2013
<<http://www.irishstatutebook.ie/pdf/2013/en.act.2013.0035.pdf>>

² Human Rights Committee, “Concluding Comments: Ireland”, A/55/40, July 24, 2000

³ *K.L. v. Peru* CCPR/C/85/D/1153/2003; *L.M.R. v. Argentina* CCPR/C/101/D/1608/2007

⁴ Kitty Holland, “Three Irish women forced to travel to UK to terminate pregnancies take case to UN”, *Irish Times*, 11 November 2013

In 1983, during internal cabinet discussions on the addition of a 'pro-life' amendment to the Irish Constitution, advice furnished by the Attorney General to the Taoiseach (Prime Minister) criticised the proposed wording as 'ambiguous and unsatisfactory': 'It will lead inevitably to confusion and uncertainty, not merely amongst the medical profession, to whom it has of course particular relevance, but also amongst lawyers and more specifically the judges who will have to interpret it. Far from providing the protection and certainty which is sought by many of those who have advocated its adoption, it will have a contrary effect.'⁵ The Attorney General reserved particular disapproval for the term 'the unborn', noting that the word as a noun (as opposed to an adjective) was not in fact defined in any of the standard English dictionaries.

(b) Concrete measures that are being taken or envisaged to clarify what a “real and substantial risk” to the pregnant woman’s life means in practice, in order to provide legal and clinical clarity for health providers and certainty for women experiencing potentially life-threatening pregnancies;

Interpretations of Article 40.3.3^o of the Irish Constitution have created a dangerous distinction between a pregnant woman’s right to life and her right to health.⁶ Ireland is the only Council of Europe Member State which permits abortion to protect the life but not the health of a pregnant woman. The Protection of Life During Pregnancy Act further articulates the distinction between health and life by expressly ruling out health as grounds for abortion. Thus the PLDPA prevents medical professionals from acting to protect the health or quality of life of pregnant women. The Act also re-criminalises abortion, meaning that harsh criminal penalties remain a threat for pregnant women (and anyone who assists them) who terminate a pregnancy outside the extremely restrictive terms of the legislation. The Act falls significantly short of meeting international human rights standards.

Although the PLDPA was drafted with the stated intention of clarifying grounds for access to abortion within the State, nearly a year on from its passage by the Houses of the Oireachtas, there remains a serious lack of legal and procedural clarity for both pregnant women and medical practitioners. The Irish Human Rights Commission has highlighted that the legislation 'lacks a clear pathway for a woman or girl seeking access to the procedure set out in Sections 7 and 9 of the Act through which a medical certification (for an abortion) is made or refused'.⁷ In situations where it is unclear if the risk to life is 'real and substantial', the Irish Family Planning Association has pointed out that the legislation does not provide safeguards to ensure the pregnant women do not experience undue delays in referral for examination by a relevant medical practitioner.⁸

The PLDPA entered into force on 1 January 2014, in the absence of both a Guidance Document and updated clinical guidelines. In its response to the Committee, the State asserts that a Guidance Document would be finalised in early 2014. It was reported at the end of April 2014 that these guidelines had been completed, although at that stage they were 'three months overdue'.⁹ However, more recent media reports state that the committee established by the Department of Health to draw up clinical guidelines on the implementation of the Act has not met since January 2014 and no guidelines have been drawn up.¹⁰ In addition, at its annual conference at the end of April 2014, the Irish Medical Organisation (the representative body for doctors in Ireland) passed a motion calling on the Minister for Health to 'publish urgently' guidelines for doctors in respect of the PLDPA. The organisation’s president stated that doctors were currently 'operating in a vacuum'.¹¹ At the time of writing (June 2014, six months after the commencement of the Act), no Guidance Document has been published. With no clear information

⁵ National Archives Ref 2013/100/557-569

⁶ For further information, refer to the section 'A Note on Article 40.3.3' and the response to issue 12(c).

⁷ Irish Human Rights Commission, *Observations on the Protection of Life During Pregnancy Bill, 2013*

⁸ Irish Family Planning Association, Correspondence to the Human Rights Committee, 9 August 2013

⁹ Niall Hunter, 'Abortion guidelines drawn up', 25 April 2014 <www.irishhealth.com>

¹⁰ Kitty Holland, 'No guidelines drawn up on abortion, says Irish Council for Civil Liberties', *Irish Times*, 6 June 2014.

¹¹ Martin Wall, 'IMO votes for reform after controversy over former chief', *Irish Times*, 26 April 2014.

coming from the Government, members of the public are left to patch together media reports, anecdotal references and personal understandings as to what the PLDPA practically provided. ARC asserts that silence continues to be a significant barrier for pregnant women as the guidelines are not publicly accessible and, therefore, women are unable to avail of them in assessing their options.

A lack of clarity remains as regards what constitutes a ‘real and substantial risk’ to a pregnant woman’s life. For example, despite the fact the legislation was passed during a continued public outcry and mass demonstrations at the death of a pregnant woman in Galway (Savita Halappanavar) after she was denied an abortion, it remains unclear whether the circumstances which led to this woman’s death (inevitable miscarriage) would justify an abortion under the PLDPA. The law requires that medical professionals wait until a woman’s condition deteriorates to the point where they judge her life, as opposed to her health, is at risk. In Ms Halappanavar’s case, doctors did not act to end the pregnancy due to the presence of a foetal heartbeat, even though her foetal membranes had ruptured, putting Ms Halappanavar at increased risk of a potentially health- and life-threatening infection. She later died from septicaemia.

Furthermore, ARC would question whether the extremely onerous provisions relating to abortion access in cases of suicide risk constitute an ‘effective and accessible’ procedure for assessing whether a woman qualifies for a legal abortion, as required by the European Court of Human Rights ruling in *A, B and C v. Ireland* (2010). ARC also maintains that these provisions amount to a violation of Article 7 of the ICCPR, as discussed in response to issue 12(a) above.

Clarity is also needed in relation to the provision concerning conscientious objection (Section 17 of the PLPDA) and the duty of care that a practitioner exercising his or her right to conscientiously object has to their patient. Although the Act places an obligation on practitioners who have a conscientious objection to ensure the transfer of a pregnant woman’s care, it contains no sanctions should a practitioner fail to meet this obligation. Crucially, the Act does not explicitly oblige hospitals to ensure women can access life-saving treatment, and there are no sanctions should an institution refuse care. ARC is concerned that this failure to place a duty of care on hospitals, in addition to the omission of sanctions in cases where care is refused, may result in women who qualify for a life-saving abortion under the PLDPA being denied access. Public statements made by a board member of one of the institutions covered by the Act further emphasises the legitimacy of these concerns.¹²

(c) Whether the State party intends to introduce measures to broaden access to abortion to guarantee women’s rights under the Covenant, including when the pregnancy poses a risk to the health of the pregnant woman, where the pregnancy is the result of a crime, such as rape or incest, cases of fatal foetal abnormalities, or when it is established that the foetus will not survive outside the womb;

Current abortion legislation in Ireland does not effectively protect women’s health or rights. Since the last examination by the Human Rights Committee the Irish State has in fact via the recent PLDPA re-criminalised abortion outside of the grounds of a ‘real and substantial risk of loss of the pregnant woman’s life’. Therefore, abortions performed in order to preserve a woman’s health, in a case of rape or incest, or in cases of fatal foetal abnormality are not permitted and are considered a criminal offence (see response to issues 12(a) above and 12(d) below).

ARC finds the State response to issue 12(c) to be particularly unacceptable. The presence of Article 40.3.3° in the Constitution is regularly employed by the State as a reason to avoid dealing with a number of questions about the duty of the State to women who are forced to travel abroad for abortions.¹³ The regular reference to the restrictive nature of Article 40.3.3° without acknowledging the role the State must play in calling for a referendum to remove the article shows that the State has no intention of acting in good faith and responding to the content of the recommendation of the Human Rights Committee to broaden access to abortion for women as referenced in 12(c).

¹² Kitty Holland, ‘Mater board priest says hospital can’t carry out abortions’, *Irish Times*, 7 August 2013.

¹³ Róisín Ingle, ‘Ask Enda Anything’, *Irish Times*, 1 March 2014.

ARC believes that there is sufficient appetite for the repeal of Article 40.3.3° amongst the Irish public. However, this desire is hamstrung by political inertia. The Constitutional Convention is a group of representatives of Irish civil society and parliamentarians, established by the Irish State for a period of one year to examine areas of constitutional reform.¹⁴ The report of the Constitutional Convention was published in March 2014; it reported that ‘there were many calls for the repeal of Article 40.3.3, from various sides of the abortion argument’.¹⁵ The primary campaign point of the Abortion Rights Campaign is currently the advocacy of the repeal of Article 40.3.3°, along with many other women- and human rights-focused organisations. ARC submitted a proposal to the Constitutional Convention which outlines the many reasons why Article 40.3.3° needs to be repealed.¹⁶ According to last year’s Ipsos MRBI poll in the *Irish Times*, the overwhelming majority of people in Ireland now support a woman’s right to choose abortion at least in the cases of risk to life (89%), risk to health (78%), fatal foetal abnormality (83%) and rape and abuse (81%).¹⁷

Article 40.3.3° is written to provide the right to life to pregnant women and an implanted embryo; however, as women are already granted the right to life (without Article 40.3.3°), the ostensible aim of the article is to prohibit women in Ireland from procuring abortion. But regardless of said restriction, Ireland is not, has never been, and never will be ‘abortion-free’. Firstly, some abortions are sanctioned on Irish soil when the woman’s life is in obvious and immediate danger. Secondly, over 150,000 women have travelled overseas for safe, legal abortions since 1980.¹⁸ In 2012 alone 3,982 women gave Republic of Ireland addresses and 905 gave Northern Ireland addresses when accessing abortions in England and Wales.¹⁹ And these are only the ones we can count. Many more women provide UK addresses at which they are not resident; provide no address at all; or travel to Scotland, the Netherlands or further afield to have abortions. All in all, it is estimated that at least 12 women leave Ireland every day to access safe, legal abortion services overseas. Thirdly, an inestimable number of women in Ireland now illegally procure abortions in their homes with abortifacient pills ordered online. In 2009 alone Irish Customs seized in excess of 1,200 such tablets.²⁰ These figures still probably represent only the tip of the iceberg of the true volume of such pills being imported by people in Ireland: many packages are successfully delivered. Abortion has always been a global phenomenon and is an incontrovertible reality for thousands of women in Ireland today.

Legislative restrictions on abortion services are not associated with lower abortion rates. Preventative, not punitive measures are the only proven way of reducing the rate of unwanted pregnancies and concomitantly the abortion rate. Far from stopping abortions while safeguarding women’s lives, legislative restrictions ensure that abortions occur generally at a later gestational age and/or with greater risk to the woman’s health. Two proven preventative measures are widespread access to affordable contraception, and comprehensive, unbiased sex education in schools.

The flagrant disregard for women’s rights inherent in Article 40.3.3° has spurred global concern for the situation of pregnant women in Ireland. Successive cases taken to Irish and European courts and the often-preventable deaths of a number of women, particularly since 1983, have sparked censure in international media on the issue. More significantly, Ireland’s abortion laws have been subject to consistent criticism by a number of authoritative international human rights bodies.

Article 40.3.3° and the legislative impact it has results in an Irish State violation of articles 6, 7, and 26 of the International Covenant on Civil and Political Rights (discussed in response to issue 12a and Additional Issues). General Comment 14 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), namely the right to the highest attainable standard of health, clearly guarantees ‘the

¹⁴ <<https://www.constitution.ie/Convention.aspx>>

¹⁵ Ninth Report of the Convention on the Constitution, Conclusions and Final Recommendations, March 2014

<<https://www.constitution.ie/AttachmentDownload.ashx?mid=55f2ba29-aab8-e311-a7ce-005056a32ee4>>

¹⁶ Abortion Rights Campaign, ‘Submission to the Constitutional Convention’, November 2013

<<https://www.constitution.ie/SubmissionDetails.aspx?sid=595aab68-6157-e311-8571-005056a32ee4>>

¹⁷ Stephen Collins, ‘Poll suggests strong support for proposed legislation’, *Irish Times*, 11 February 2013.

¹⁸ Irish Family Planning Association, ‘Statistics’ <<http://www.ifpa.ie/Hot-Topics/Abortion/Statistics>>

¹⁹ UK Department of Health, ‘Abortion Statistics, England and Wales: 2012’, April 2014.

²⁰ Fiona Gartland, ‘Fall in seizures of drugs that induce abortion’, *Irish Times*, May 27 2013.

right to control one's health and body, including sexual and reproductive freedom'.²¹ The Committee on Economic, Social and Cultural Rights, along with the World Health Organisation (WHO), has stated that laws restricting access to abortion are a threat to the right to health of women. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) recommends the removal of any barriers to women's access to reproductive health services.²² The WHO further acknowledges the widespread recommendations by international human rights bodies and courts of decriminalisation and provision of abortion services in order to protect women's health.²³

By ignoring the fact that women actually seek and need abortion, the State is shirking its responsibility to the women who seek to access abortion within Ireland as users of the health service and who regularly bear the burden of provision of care.

ARC requests that the Human Rights Committee urge the Irish State to propose a referendum to repeal Article 40.3.3° in order to allow for legislation which adheres to international human rights standards and protects the rights and health of women in Ireland.

(d) Circumstances in which the Director of Public Prosecutions may authorize prosecutions, and against whom, under section 22 of the Act.

In the European Court of Human Rights judgment on *A, B, and C v. Ireland*, the Court expressed concern over the criminal sanctions placed on abortion by Ireland's then nearly 150-year-old law, the 1864 Offences Against the Person Act. The Court highlighted the significant 'chilling factor' that law created and the impact that it may have on women and their doctors. Section 22 of the Protection of Life During Pregnancy Act 2013 renews this criminalisation with a potential sentence of 14 years' imprisonment, thereby renewing and reinforcing the 'chilling factor' with an enforceable potential sentence. ARC asserts that this aspect of the PLDPA is particularly dangerous and counterproductive. It puts doctors trying to protect their patients' lives at legal risk and it deters women from accessing vital medical services which may be needed post-abortion. It also discriminates against women who cannot travel to access abortion services overseas (discussed in response to issue 12d). The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) recommends the removal of any barriers to women's access to reproductive health services. CEDAW criticises in particular 'laws that criminalise medical procedures only needed by women and that punish women who undergo those procedures'.²⁴ The UN Committee Against Torture (UNCAT) has expressed specific concern for the criminal aspect in Ireland's abortion laws and has cautioned that it may give rise to a violation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.²⁵

Section 22 of the PLDPA does not specify who risks prosecution by assisting in the illegal termination of a pregnancy. While it can be assumed that a woman who ends her pregnancy by self-administering the abortion pill risks prosecution, Section 22 leaves open the possibility that the owner of the premises in which she takes the abortifacient could also be prosecuted. Medical professionals who carry out abortions in the belief they are acting in the best interest of their patients also risk prosecution if they are found to have acted prematurely to protect a woman's health, rather than waiting until her condition deteriorates to the point where it poses a risk to her life. The threat of prosecution also hangs over medical professionals who provide an abortion in cases of fatal foetal abnormality, even though there is no equal right to life to protect under Article 40.3.3° of the Constitution. Furthermore, there is a disproportionate risk of prosecution borne by the most vulnerable groups of women, such as asylum seekers and poor women,

²¹ CESCR, General Comment 14, the right to the highest attainable standard of health, UN Doc. E/C.12/2000/4 (2000); International Covenant on Economic, Social and Cultural Rights (ICESCR), entered into force January 3 1976, ratified by Ireland December 8 1989.

²² CEDAW, General Recommendation 24: Article 12 of the Convention (Women and Health), A/54/38/rev. 1, ch. 1, 1999.

²³ World Health Organization, Department of Reproductive Health and Research, *Safe Abortion: Technical and Policy Guidance for Health Systems*, 2nd ed. (2012).

²⁴ General Recommendation No. 24, Article 12 of the Convention (Women and Health) 1999, A/54/38/Rev 1.

²⁵ CAT/C/IRL/CO/1.

who are unable to travel for abortion and are forced to resort to illegal actions such as importing the abortion pill.

ARC disputes the State's assertion that this provision is necessary to meet the constitutional obligation arising from Article 40.3.3°. As Dr Ruth Fletcher stated in her submission to the Oireachtas Health Committee on the General Scheme of the PLDP Bill, 'Criminalisation does not achieve the objective of protecting foetal life and it makes the mental and physical experience of unwanted pregnancy worse. The Legislature has other options under Article 40.3.3 and it does not have to criminalise...[This provision] is unfair because it asks women, rather than the State, to bear the weight of the public duty to vindicate foetal life.'²⁶

Additional Issues

Article 26

Article 26 of the ICCPR provides for the right to be free from discrimination based on gender, socio-economic status, national origin, etc. The PLDPA and Article 40.3.3° of the Irish Constitution are discriminatory. In denying women in Ireland access to all necessary medical care, a restriction not placed on men, Irish law clearly places less value on women's lives and well-being than on men's, simply for the physical potential of pregnancy. When considered alongside the Thirteenth Amendment (enacted in 1992), which provides for the right to travel abroad for abortion services, Article 40.3.3° further discriminates against those for whom travel is problematic or impossible: young women and girls; women with certain disabilities; women in poverty or of low socio-economic status; asylum seekers; and women in controlling or abusive relationships.

CEDAW also guarantees the right to be free from discrimination. CEDAW case law highlights situations where discrimination arises as a result of socio-economic status, preventing adequate access to health services. As previously noted, this is particularly relevant to the predicament of asylum seekers or economically disadvantaged women in Ireland for whom overseas travel for abortion access is problematic or impossible.²⁷ CEDAW has specifically expressed concern over Ireland's 'very restrictive abortion laws'.²⁸ The WHO acknowledges that in the majority of countries in the developed world abortion is widely available. However, in countries where severe legislative restrictions are placed on abortion it remains accessible only to the privileged and wealthy.²⁹

Recommendations

In order for any life-saving abortions to be performed under the current legislation in Ireland, the legal and procedural guidelines need to be made significantly clearer to the public by providing clear information for medical practitioners as to what constitutes a real and substantial risk to a pregnant woman's life and detailed information about pathways to access for abortion-seekers. Section 17 of the Act, concerning conscientious objection, must also be amended to ensure it is not used to refuse care to a woman who qualifies for a lawful abortion.

The State should remove the chilling, indefensible and unenforceable criminalisation of abortion outside the narrow confines of the Protection of Life During Pregnancy Act 2013.

²⁶ Dr Ruth Fletcher, Submission to the Oireachtas Health Committee on the General Scheme of the Protection of Life During Pregnancy Bill 2013, 21 May 2013.

²⁷ Irish Human Rights Commission, 'Observations on the Protection of Life During Pregnancy Bill 2013', available at <<http://www.ihrc.ie/publications/list/ihrc-observations-protection-of-life-during-pregna/>>

²⁸ CEDAW, July 2005, CEDAW/C/IRL/4-5

²⁹ World Health Organization, Department of Reproductive Health and Research, *Safe abortion: technical and policy guidance for health systems*, 2nd ed. (2012).

End the discrimination against women with an inability to travel due to terms of residency, health, and legal status by providing access within the State to safe and legal abortion services which Constitutional Amendment 13 ostensibly provides and acknowledges as a right to those women who are able to travel outside of the State.

In order for there to be any possibility of legislation which adheres to international human rights standards, Article 40.3.3° of the Irish Constitution must be repealed. This will allow the Irish State to implement legislation to provide abortion access in full compliance with Articles 6, 7, and 26 of the ICCPR and all international human rights instruments. ARC respectfully requests that the Human Rights Committee urge the Irish State to propose a referendum to repeal Article 40.3.3°.

Yours sincerely,

The Abortion Rights Campaign