Women and Equalities Committee

Abortion law in Northern Ireland inquiry

This response is submitted on behalf of the Christian Medical Fellowship (CMF). CMF represents over 5,000 doctors, 800 medical students and 400 nurses across the UK, including over 250 in Northern Ireland (NI). CMF is also linked to 80 similar organisations worldwide.

We would like to highlight the following points about the existing law on abortion in NI, briefly:

1. The abortion law in NI reflects what every mother knows intuitively

The existing abortion law in NI recognises that two lives are involved in an abortion – those of the mother and of her unborn child. Every woman, finding out that she is pregnant, knows intuitively that she is carrying a person – a person with a right to a welcome in her womb and eventually into the world. Deliberately to terminate the life of her child is an act of desperation, running counter to intuitive instincts to protect it. As it stands, the abortion law in NI protects both the unborn child from destruction and the mother from a decision she may otherwise regret.

2. The law on abortion in NI protects women from the risks and complications of abortion

a) There is no clear evidence of a mental health benefit from abortion compared to birth and some factors increase the risk of negative outcomes post abortion

The most comprehensive review into the mental health outcomes of induced abortion, carried out in the UK in 2011,[1] found the rates of mental health problems for women with an unwanted pregnancy were the same, whether they had an abortion or gave birth. The same review concluded that the most reliable predictor of post-abortion mental health problems is having a history of mental health problems prior to the abortion.

The results of this review were re-examined by Fergusson, who confirmed that there is no evidence that abortion reduces the mental health risks of unwanted pregnancy. He found that there were small to moderate increases in risks of some mental health problems post abortion.[2]

A growing body of evidence suggests that women may be at an increased risk of mental health disorders (notably major depression, substance misuse and suicidality) following abortion, even with no previous history of problems. Researchers not associated with vested interest groups have published this evidence. [3] [4]

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[1] Induced Abortion and Mental Health: A systematic review of the evidence — full report and consultation table with responses. *Academy of Medical Royal Colleges* (AoMRC). December 2011

[2] Fergusson D, Horwood L & Boden J. Does abortion reduce the mental health risks of unwanted or unintended pregnancy? A re-appraisal of the evidence. *Aust N Z J Psychiatry* 2013;47:1204-1205 *bit.ly/W5FPm5*

[3] Fergusson D, Horwood L & Boden J. Reactions to abortion and subsequent mental health. *British Journal of Psychiatry* 2009;195(5):420-6 *bit.ly/1tWeTCM*. Fergusson, D, Horwood, L & Boden J. Abortion and mental health disorders: Evidence from a 30-year longitudinal study. *British Journal of Psychiatry* 2008;193:444-51

[4] Pedersen W. Abortion and depression: A population-based longitudinal study of young women.

b) There is strong evidence of a link between abortion and subsequent preterm birth.

The risk of a preterm birth in someone who has had a previous abortion is small but real. A 2013 review found that women who had one prior induced abortion were 45% more likely to have premature births by 32 weeks, 71% more likely to have premature births by 28 weeks, and more than twice as likely (117%) to have premature births by 26 weeks.[5] A review published in the *American Journal of Obstetrics & Gynecology* in 2010, found that terminations in the first and second trimesters are associated with a 'very small but apparently real increase in the risk of subsequent spontaneous preterm birth'.[6]

c) Recent evidence suggests that abortion may increase susceptibility to breast cancer.

A meta-analysis of 36 studies on abortion published in 2014 by Huang et al. concluded that induced abortion is significantly associated with an increased risk of breast cancer – by as much as 44% after one induced abortion and even more as the number of abortions increases.[7] These findings have been dismissed by RCOG, citing Beral's 2004 analysis that abortion does not increase the risk of breast cancer.[8] Further research is needed to clarify the risk.

d) There is a small but real risk of physical complications from abortion.

Government statistics report complications for 278 abortions out of 185,000 in England and Wales in 2012, with twice as many complications from medical abortions as surgical. Complications include haemorrhage, damage to the cervix, uterine perforation and/or sepsis but this only includes those reported up to the time of discharge from the place of termination.[9] Complications such as these will become more of an issue as more medical abortions are carried out in patients' homes.

The RCOG reports[10] that for second trimester medical abortions, surgical intervention rates vary between studies ranging from 2.5% in one study and up to 53% in a UK multicentre study. T he same report states that women are more likely to seek medical help for bleeding after medical abortion than after surgical abortion and to report heavier bleeding than they expected from a medical abortion.

An Australian review of 7,000 abortions found that: *'Following mid trimester medical abortion, emergency department presentation and subsequent admission were frequent. Manual removal of*

Scandinavian Journal of Public Health 2008;36(4):424-8. *1.usa.gov/1qwNoxc*

[5] Hardy G, Benjamin A, Abenhaim H. Effect of induced abortions on early preterm births and adverse perinatal outcomes. *J Obstet Gynaecol Can* 2013;35(2):138-143 *bit.ly/1nsj5UU*

[6] Iams J, Berghella V. Care for women with prior preterm birth. *American Journal of Obstetrics & Gynecology* 2010;203(3):89-100 *1.usa.gov/Y7WEib*

[7] Huang Y et al. A meta-analysis of the association between induced abortion and breast cancer risk among Chinese females. *Cancer Causes Control* 2014;25(2):227-36

[8] Beral V et al. A collaborative reanalysis of data from 53 studies, including 83,000 women from 16 countries. *Lancet* 2004;363:1007-16 *1.usa.gov/Ol3BXE*

[9] 187 reported complications were after medical abortion and 91 after surgical abortion. *Abortion statistics, England and Wales*: 2012. April 2014. Department of Health. *NHS Choices* state that after an abortion, the main risk is infection in the womb. *bit.ly/1rbtBVi*

[10] The Care of Women Requesting Induced Abortion: *RCOG Evidence-based Clinical Guideline* Number 7. RCOG 2011:37 *bit.ly/1gknzMHf*

the placenta and the high rate of unplanned surgical intervention (rate of 32%) in these cases impose additional costs as well as placing demand on operating theatre resources'.[11]

In the light of these risks and complications, it is not surprising that some doctors conclude it is not in their patients' best interests to refer for abortion simply 'on demand'.

3. The abortion law in NI has made a significant difference to the number of abortions

According to research conducted by *'Both Lives Matter'* in 2017, an estimated 100,000 individuals are alive in NI today who would not have been had NI adopted the Abortion Act in 1967 as did the rest of the UK. This figure was independently verified by the Advertising Standards Authority following the investigation of a complaint made to them.[12] Claims that the law has made no difference to the number of women from NI having abortions are not evidence-based.

4. The abortion law in NI protects unborn disabled children from discrimination

Around 90 percent of babies found in utero to have Down Syndrome in England, Scotland and Wales are aborted.[13] In contrast, 90 per cent of babies identified with Down Syndrome in NI were born in 2016.[14] In the same year just one mother travelled from NI to England and Wales for a disability selective-abortion of a baby with Down syndrome. Lord Shinkwin has recently described Northern Ireland as 'the safest place in our United Kingdom to be diagnosed with a disability before birth.'[15]

5. The people of NI should have the right to decide through their elected Assembly

It is a principle of democracy that those who are subject to laws should have the power to shape those laws through their elected representatives. No member of the Women and Equalities Committee represents a seat in Northern Ireland. Constitutionally, this a matter that should be decided by the NI Assembly, a point made repeatedly by the British Government and politicians of all political stripe in the Westminster parliament. We do not think an inquiry into a devolved competence would be acceptable either to the Scottish Parliament or the Welsh Assembly.

We are not in favour of a referendum in NI on the issue of abortion. In our opinion, referendums should be used sparingly and reserved for constitutional matters, not policy matters. Nuanced issues such as abortion do not lend themselves to the simple binary choices that referendums decide between.

6. The abortion law in NI is not incompatible with human rights legislation

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[11] Mulligan E, Messenger H. Mifepristone in South Australia: The first 1343 tablets. *Australian Family Physician* May 2011; 40(5)

[12] https://www.asa.org.uk/rulings/both-lives-matter-a17-370344.html

[13] The National Down Syndrome Cytogenetic Register for England and Wales: 2012 Annual Report http://www.binocar.org/content/annrep2012_FINAL.pdf (Accessed 04/12/2018)

[14] See http://www.publichealth.hscni.net/sites/default/files/Core%20Tables%202016%20-%20final%20-%208%20Dec%202017_0.pdf and https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/714541/2017_Tables_-_Abortion_Statistics.ods

[15] Lord Shinkwin speaking in the House of Lords on 1/11/2018

It is frequently argued by its opponents that the law on abortion in NI is not compliant with human rights legislation. It is true that Supreme Court judges have suggested [16] that the existing law may be non-compliant in its failure to allow for abortion *in two specific situations* – those where the unborn child has abnormalities that will prove fatal before, during or soon after birth, or where conception has taken place following a sexual crime. Such cases are mercifully rare, accounting for a tiny fraction (less than two percent) of recorded abortions in England and Wales.

The judges' opinions should not be taken to apply generally and therefore do not provide support for a change in the abortion law in NI to enable access to abortion *on any grounds.* Indeed, they unanimously held that even in cases of serious foetal abnormalities, they would not have found the existing law to be non-compliant with human rights legislation.

Some Westminster parliamentarians also argue for the decriminalisation of abortion in NI based on a report[17] issued by a committee of the United Nations (the Committee for the Elimination of Discrimination Against Women (CEDAW)). The UN Convention on the Elimination of Discrimination Against Women, that the Committee is charged with implementing, at no point mentions abortion. It appears that CEDAW has chosen to read into the Convention an application that it has no legal standing to make. The views of such unelected bodies are of only marginal relevance and, according to Supreme Court Justice Lord Hughes, carry an authority that in legal terms is 'slight'.[18] In our view, arguments based on this Committee's report can bear no weight in the debate about abortion law in NI.

We are also aware of the General Comment of the Human Rights Committee on Article 6 of the International Covenant on Civil and Political Rights (ICCPR).[19] Like the CEDAW committee, this is an unelected body and the ICCPR makes no mention of abortion in its Convention. The Committee's contentious reading of Article 6 would effectively interpret the Article as demanding the human right to end human life based on an argument upholding the right to life! These are the nonsensical contortions that result when unelected bodies are driven more by ideology than reason.

[16] [2018] UKSC 27.

[17] http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhslpSf4Lt4DUhQcPE9cYLQWXp9oGqAL3Woj45pH3yBTbo%2b0I6DYTNbR9SrwMeY01b%2b9zmLiHN6I5d56JFzEj8QUqzvfZmADyHJ%2bPVef401375

[18] R (A and B) v Secretary of State for Health [2017] 1 WLR 2492 per Lord Wilson at [35], with whom Lord Reed and Lord Hughes agreed

[19] https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f36&Lang=en