14 September 2018

**Alliance for Choice:** Submission to the UN Special Rapporteur on Extreme Poverty

**Introduction**

Alliance for Choice (AFC) is a civil society organisation that campaigns for safe, free and legal abortion in Northern Ireland. We are made up of people who reflect the diverse population of Northern Ireland and who want to see equality and self-determination for women in the area of reproductive rights.

We believe that we should be empowered to make our own decisions concerning our bodies and children. It is our right, and we should be able to exercise this right by having access to education on family planning and contraception. This capacity to make informed choices and plan pregnancies also increases the likelihood us and our children will be healthy. Having the ultimate decision on pregnancy will benefit parents, children, families and society. For pregnant people in Northern Ireland, this is restricted by the harsh abortion laws and economic status.

This submission outlines how poverty and social exclusion for pregnant people in Northern Ireland impacts on their reproductive choices and freedoms. Other fellow NI NGOs will provide greater detail on the social and economic status of women and young girls.

Of immediate concern to AFC is the two-child policy limit under the rules of the Child Tax Credit and Universal Credit. If you have two or more children you cannot claim for them under these benefits. However, if women can prove that subsequent children were conceived as a result of rape or coercion then they can claim for these children. It is wrong and shameful to force women to reveal and relive past ordeals, we understand that women are seeking to terminate pregnancies in order not to fall foul of the two-child limit.

**Ongoing systematic human rights violations**

The ongoing grave and systematic human rights violations that occur on a daily basis for women, girls and trans/non-binary people in Northern Ireland is well documented. The CEDAW Committee since 1999 and latterly other UN Committees such as IPPR, CRC and ESRC have been highly critical of the failure of the State Party to legislate to ensure that abortion seekers can access safe, free and legal abortion in Northern Ireland.

Northern Ireland continues to rely on the 1861 Offences Against the Person Act, making abortion a grave criminal issue, unlike other parts of the United Kingdom where abortion is legal, free and safe and governed by the 1967 Abortion Act. The continued exclusion from the 1967 Abortion Act in Northern Ireland means that the issue of abortion continues to be governed by confusing and threatening legal ambiguity 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.

**CEDAW:** The continued failure of the UK Government to provide women and young girls in Northern Ireland free, safe and legal abortions in Northern Ireland denies them the protections of the rights enshrined in the Convention in respect of Article 25: Health. Other rights are also engaged by the failure to legislate for safe, free and legal abortion giving rise to persistent inequalities and violations of the rights of women living in Northern Ireland, specifically concerning the following Articles: Article 5: Equality and non-discrimination; Article 6: Women with disabilities; Article 9: Accessibility; and Article 23: Respect for home and family life.

**CESR General Comment 14**: The Committee on Economic, Social, and Cultural Rights has emphasised equality of access to health care and health services as a component of the right to health. In this regard, the Committee has articulated a ‘special obligation [on states] to provide those who do not have sufficient means with the necessary health insurance and health-care facilities’. The current high cost of travel, childcare, job security and accommodation encountered by NI abortion seekers obtaining treatment outside of the jurisdiction is clearly placing the UK in violation of the right to health.

**Article 12 – CEDAW:** The particular toll on rural women of the restrictive access to abortion was detailed, especially because of the additional difficulties of guaranteeing patient confidentiality for women seeking medical advice in rural areas on their entitlement to an abortion. The uneven physical and mental health consequences of the restrictive abortion regime, that are borne by women but not men, demonstrate discrimination in marriage and family relations.

**Sexual crime:** The international community has called for the immediate decriminalising of abortion in instances of rape and incest. A WHO Report on *Safe Abortion* argues that prompt, safe abortion services should be provided on the basis of a woman’s complaint rather than requiring forensic evidence or police examination. Any woman or girl that becomes pregnant as a result of a criminal act should have the same access to support services, including if necessary, abortion services as women or girls in other UK countries.

**UNCRC:** In relation to other UN Committees the CRPD are aware of the publication of the ‘*General Comment on the Implementation of the Rights of the Child During Adolescence’*, particularly around the issue of sexual and reproductive health. A number of articles of the convention on the rights of the child are engaged within this general comment, particularly areas such as the right to information, age appropriate comprehensive and inclusive sexual and reproductive health education as well as urging States to ‘*decriminalise abortion to ensure that girls have access to safe abortion and post-abortion services, review legislation with a view to guaranteeing the best interests of pregnant adolescents and ensure that their views are always heard and respected in abortion-related decisions.’* (chapter 60)

It is important to emphasise that despite the devolved legislature of Northern Ireland the UK Government has overall responsibility for ensuring that all of the UK meets its obligations with regard to international conventions and treaties.

**Costs of accessing abortion**

Access to abortion services for women in England and Wales is provided under the National Health Service; i.e. free of charge. Women from Northern Ireland however, until recently had to access abortion services through the private sector and pay for travel and accommodation, despite being UK citizens and paying the same fiscal taxes. For women on low incomes and women in rural areas, these barriers can have serious implications in exposing them to the risk of unsafe abortion practices.

Whilst recently the government in the United Kingdom have provided abortions funded abortions for women from Northern Ireland, including travel costs for those earning less than £16K, this is a recent development not enshrined in law and is open to being withdrawn at any time. It also fails to recognise the financial cost of taking time off and childcare when you work in a low paid or precarious job. These barriers mean many women still access abortions through online pills services. Those with disabilities or compounding medical conditions also face barriers to travel, meaning online pills are the only option.

Prior to this, the **cost of accessing abortion** ranges from £70 from organisations who provide the abortion pill online to £500–£3000 for those who travel to England. Such costs created significant burden to women with low incomes and can also lead to delays in obtaining an abortion, thereby increasing its cost. (Rossiter, 2009).

There may be additional costs, not to mention emotional trauma, incurred by the need to bring foetal remains home for genetic testing and post mortem. Families who wish to have a burial, cremation or an autopsy after an abortion in England are also faced with having to organise how they can bring the foetal remains home. This might include using specialist services (at a cost of approx. £400), a parcel courier or bringing the remains home themselves, in their hand-luggage if flying, or in a car if travelling by ferry (Bloomer, Hoggart 2016). Those wishing to have an autopsy conducted in Northern Ireland have no clear pathway to request this, resulting in clinic staff liaising with local health settings in Northern Ireland to arrange tests or tests being conducted in England, which the families would have to pay for.

The requirement for documents to travel within the United Kingdom also make it difficult and even impossible for women without documentation or asylum status, who are often the most vulnerable and without financial means.

The Provision of emergency contraception in Northern Ireland is restricted by cost and availability. While emergency contraception is available free from family planning clinics in Northern Ireland, these clinics have limited opening hours and are largely confined to urban areas, thereby disadvantaging women in rural areas. Even though emergency contraception is available at request over the pharmacy counter for a cost of £26 (28 EUR), it is not always accessible, as some doctors refuse to prescribe it, and the cost makes it unaffordable to some women, especially those on restrictive monthly benefits. Therefore, women in rural areas or those relying on welfare are more at risk of an unplanned pregnancy.

**Current frameworks:** It is not clear how gender equality and women's rights have been considered in the development of a Programme for Government Framework or how these matters will be included and progressed in the Programme for Government and the Social, Economic and Investment Strategies and associated Budget to be developed within the Framework by the end of 2016. The recent draft Programme for Government Framework published by the NI Executive states that improving health in pregnancy will be measured by the proportion of baby’s birth weight thus neglecting the health of the pregnant woman completely.

Women should not be in a position where they have to travel and pay for an abortion outside of Northern Ireland or secure abortion pills on the Internet. This being the only option for most women in Northern Ireland who need abortions is testament to how they continue to be discriminated against and have their human rights to reproductive health services breached.

**For further information, contact:**

 **AFC co-chair, Emma Campbell -: campbell.emma@gmail.com 07894063965**

**AFC co-chair, Kellie O’Dowd -: kellie.odowd@btinternet.com**

**For a summary of recent developments in Westminster, please see here: https://londonirisharc.com/now-for-ni/**

**Appendix 1 Current case law and developments**

The UK has faced repeated challenges by the CEDAW Committee and other United Nations committees concerning non-compliance inherent to the restrictive regime of access to abortion in Northern Ireland. The CEDAW Committee has challenged the UK on access to abortion in Northern Ireland throughout its examination of the 1999, 2009 and 2013 UK state party periodic reports to the Committee. The Committee’s challenges have been articulated in the List of Issues developed by the Committee in advance of each periodic examination, the Committee’s oral hearings to discuss the periodic report with state representatives, and in the Committee’s Concluding Observations to the state party at the end of examination of each periodic review.

A number of recent developments have also shown the continued failure of the state party to rectify the situation in Northern Ireland:

* The 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 report recommended that the State party urgently: (a) Repeal sections 58 and 59 of the Offences against the Person Act, 1861 so that no criminal charges can be brought against women and girls who undergo abortion or against qualified health care professionals and all others who provide and assist in the abortion; (b) Adopt legislation to provide for expanded grounds to legalise abortion at least in the following cases: (i) Threat to the pregnant woman’s physical or mental health without conditionality of “long-term or permanent” effects; (ii) Rape and incest; and (iii) Severe foetal impairment, including FFA, 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. (c) Introduce, as an interim measure, a moratorium on the application of criminal laws concerning abortion, and cease all related arrests, investigations and criminal prosecutions, including of women seeking post-abortion care and healthcare professionals.
* The UK Supreme Court ruling on abortion law in Northern Ireland on 7th June 2018. A majority of the Supreme Court determined that an Article 8 (right to private and family life) incompatibility does exist regarding prohibition of abortion in cases of fatal foetal abnormality and sexual crime. A minority of the Supreme Court (two judges out of seven) also found the law to be incompatible with Article 3 (right to be free from torture, inhuman or degrading treatment) in these circumstances.
* Whilst the Court ultimately did not find in the Northern Ireland Human Rights Commission’s favour, due to the view of the Court, that the Northern Ireland Human Rights Commission does not have legal standing to bring the case, the statement from the court on incompatibility cannot be underestimated.
* There have been a number of debates at Westminster’s where MPs have tried to force the hand of the UK Government to legislate for abortion by removing sections 58 and 59 of the Offences Against Persons Act 1861. The Secretary of State for Northern Ireland repeatedly stated that this is an issue for the devolved government of Northern Ireland. The Northern Ireland Assembly has been in suspension since January 2017 and a return before Brexit is unlikely.

**May 2014** The High Court in London ruled that women from Northern Ireland are **not** entitled to free abortions on the NHS in England and Wales. The case arose after Claimant A (who was a minor at the time) had to travel to England in October 2012 with her mother, Claimant B, who struggled to part-raise funds for her daughter to have an abortion privately. The Claimants argued that it was irrational for the Secretary of State not to provide such an important service to residents of part of the UK and that they had been discriminated against simply because of their place of residence. This case was rejected by the Court of Appeal and is now on its way to the Supreme Court with FPA and Alliance for Choice as We have been made aware of the possibility that the Public Prosecution Service may pursue prosecutions for signees of the letter.

* A 21-year-old woman was handed a suspended prison sentence for accessing and using early medical abortion pills. The woman bought the drugs on the internet after failing to raise enough money to travel to England for an abortion.
* A second case involving criminal charges concerning a woman who allegedly bought early medical abortion pills online to terminate her 15 year-old daughter's pregnancy was heard but has subsequently been postponed.
* During the time period 2009 to 2015 requests to WOW grew from 200 per year to 1400 per year (this can account for the fall in figures of women travelling to England)
* Of 1234 respondents who had used the pill 98% would recommend it to friends
* Those in financial hardship were more likely to be further along in pregnancy than those with no financial hardship
* Majority of N/Irish women requesting abortion pills from Women on Web were less than 7 weeks' gestation
* Women who had difficulty paying for medical abortion are statistically more likely to be younger and lacking in emotional support

**Appendix 2 Selected Sources:**

Abigail Aiken; Lisanne van Tunen; James Trussell, Rebecca Gomperts, (2016) Circumstances of Unwanted Pregnancy, Reasons for Seeking Abortion, and Use of Post-Abortion Contraception Among Women in Northern Ireland and Ireland Accessing Abortion Through Women on Web. Abortion and Reproductive Justice - The Unfinished Revolution II” Conference, Belfast, June 2016.

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Bloomer, Fiona and Hoggart, Lesley (2016) Abortion Policy - Challenges and Opportunities. Briefing Paper, Knowledge Exchange Seminar Series. RAISE/ NI Assembly.

DHSSPSNI (2016) Northern Ireland Termination of Pregnancy Statistics 2014/15, <https://www.dhsspsni.gov.uk/sites/default/files/publications/dhssps/hs-termination-of-pregnancy-stats-14-15.pdf>

Francome, Colin and Savage, Wendy, (2011). Attitudes and practice of gynaecologists towards abortion in Northern Ireland. *Journal of Obstetrics and Gynaecology*, *31*(1), pp.50-53.