



**Public Hearings on the Implementation of the Government Decision
following the publication of the Expert Group Report into Matters Relating to
A, B, C vs Ireland**

Statement to the Joint Committee on Health and Children

Thursday 10th of January 2013

Thank you, Mr. Chairperson, for inviting the National Women's Council of Ireland to present to the Committee this afternoon. My name is Orla O Connor and I am Director of the NWCI.

The National Women's Council of Ireland is a non-governmental membership organisation of women's groups in Ireland. We currently have over 160 member organisations, representing a wide and diverse range of women's groups throughout the country. As the representative organisation of women in Ireland, our mission is to achieve women's equality, empowering women to work together to remove structural, political, economic, cultural and affective inequalities.

The NWCI welcomes the announcement by Government to introduce legislation and regulation for abortion as recommended by the Government's Expert Group, we recommended this was the only way to give effect to both the Supreme Court Judgement in 1992 in the X Case and the European Court of Human Rights in its judgement for A, B and C .

The NWCI welcome the opportunity to contribute to the discussions on the forthcoming legislation and we would like to make four key points.

Firstly the NWCI has worked on the issue of abortion for over thirty years and our position on abortion has developed over time in recognition of the diversity of views and perspectives which women have on the issue. The NWCI is well placed to make a considered contribution to the current debate. We have been mandated by our vast and diverse membership to adopt a pro-choice position on abortion. This position is rooted in an analysis of gender equality, women's human rights and social inclusion.

Most recently the NWCI has led an online campaign to legislate for X and over 72,000 emails have been sent to TDs from over 16,000 women and men in every constituency in Ireland.¹ We have the support of our membership in calling for the provision of abortion services in certain circumstances in particular the situation where a woman has a life threatening pregnancy including the risk of suicide. This support is also reflected in recent opinion polls which reveal that 85% of the population support abortion where the mother's life is threatened, including by suicide.² Irish laws are out of step with public opinion and the time has come to introduce legislation as a matter of urgency to provide access to abortion services in Ireland. Our role is to give voice to the experiences of women in Ireland who remain largely voiceless in

¹ This was in the period beginning of November to middle of December 2012. See www.nwci.ie

² Opinion poll conducted by Red C and the Sunday Business Post December 2012

this debate due to the stigma that surrounds abortion in Ireland and to support women's access to reproductive health.

Secondly, the legislation must provide for the immediate repeal of Sections 58 and 59 of the completely outdated Offences Against the Person Act 1861 which criminalises abortion in all circumstances. As the European Court of Human Rights observed in the A, B and C judgment, the criminal provisions of the 1861 Act constitute a significant chilling factor for both women and doctors in the medical consultation process, regardless of whether or not prosecutions have in fact been made. As the UN Special Rapporteur on the Right to Health stated on his visit to Ireland in December "Criminal laws and other legal restrictions disempower women, who may be deterred from taking steps to protect their health, in order to avoid liability and out of fear of stigmatization.

Our members have reported that women coming in to get counseling on their options in a crisis pregnancy situation are terrified of the possibility of going to jail and feel like a criminal and felt that in even accessing lawful information services they may be doing something criminal. This is absolutely unacceptable that women are made feel like this by a completely outdated and archaic law dating back to 1867. It is the view of the NWCI that abortion must be decriminalized if the legislation plus regulation approach is to be accessible and effective and to remove the shame, stigma and discrimination that women in Ireland have to endure as a result of these criminal provisions.

Thirdly the legislation must provide for regulations that allow for a practical assessment by doctors and women of a "real and substantial risk" to the life of

the pregnant woman. It must also provide for an accessible review framework to examine or resolve differences of opinion between a woman and her doctor or doctors. The legislation and regulations must provide for a duty of care on health service providers to ensure that women receive appropriate information and care, including post-abortion care. The regulations must place a woman's right to reproductive autonomy at the heart of all procedures and services. This autonomy is reflected in the Expert Group report in its chapter on the general principles that should apply to the implementation of the European Court of Human Rights judgement.³ This can be achieved by ensuring that the proposed regulations and the procedures and services created by them undergo a gender mainstreaming process so that they are gender sensitive to the particular needs of women and respect the capacity of each woman to make decisions concerning her own reproductive health. Gender mainstreaming our health policy, planning and service delivery is a firm commitment of government under the National Women's Strategy 2007-2016.⁴ Furthermore it is important that all reproductive health services are physically and financially accessible to all women in Ireland without any discrimination.

Over the years our members have communicated to us the lack of agency that women feel while accessing reproductive services in Ireland. It is crucial that women are active participants in relation to their reproductive health in

³ See Report of the Expert Group on the Judgement in A, B and C v Ireland November 2012, page 29. Principle 4: "It will always be a matter for the patient to decide if she wishes to proceed with a termination following a decision that it is clinically appropriate medical treatment."

⁴ See National Women's Strategy 2007-2016 Objective 8 – A.

conjunction with their doctor. We must avert the danger of over regulation to the detriment of women's health.

Lastly the legislation and subsequent regulations must cover the threat of suicide as a real and substantial risk to the life of the mother. There are cases where the risk of suicide would constitute a ground for abortion and women must be viewed and trusted as individuals having agency and capable of making considered decisions about their own reproductive health. There should be proper and fair medical assessment procedures in place to assess whether the risk of suicide constitutes a real and substantial risk, as provided for in the X case. It is both insulting to women and to people with mental health difficulties for groups to claim that women will be likely to fabricate suicidal tendencies in an effort to seek access to abortion in Ireland. There have been and will continue to be cases where a crisis pregnancy might trigger or could aggravate existing mental health conditions and the legislation and regulations should reflect this.

As the Irish Family Planning Association stated on Tuesday they have clients who have had suicidal thoughts, have threatened suicide and a very small number who have followed through on those threats. The NWCI agree with the statement in the expert group report, that termination of pregnancy is a lawful medical treatment regardless of whether the risk to life arises on physical or mental health grounds.



In conclusion the NWCI urges the government to implement legislative measures as a matter of urgency that decriminalize abortion, that cover the situation of life threatening pregnancies including the risk of suicide and that place women's reproductive autonomy at the heart of all procedures and services

BUT it is also critically important for us to acknowledge in these discussions that introducing legislation which gives effect to the X Case will place Ireland with one the most restrictive abortion legislation and practices globally. For many of our members particularly for women who have had abortions as a result of fatal foetal abnormalities and as a result of rape this legislation will not provide an answer and for the women today, over 4,000 per year, who are right now travelling to the UK and beyond Irish law will still provide no support and no resolution for them.

The NWCI believes that achieving access to safe and legal abortion is critical to achieving gender equality in Irish society. Women in Ireland must be in a position to make personal decisions about their own bodies and health care free from coercion, discrimination and the threat of incarceration. Legislation to give effect to the X case is the urgent and outstanding issue and the NWCI encourages you to introduce this legislative early in 2013.

Thank you Mr. Chairperson