

**NUS-USI's response to the
consultation on the criminal law on
abortion**

Introduction

NUS-USI welcomes the opportunity to respond to this very important consultation.

NUS-USI is encouraged that these plans are being consulted on as regards making the law on abortion here less restrictive; however, we believe that these changes are not going far enough in that they should deliver full reproductive choice for women on abortion. We also have significant concerns around the potential way that the law could define who would be allowed to have abortion as a result of rape or incest, in case some people that this applies to are excluded from being allowed to access an abortion.

In poll carried out by Milward Brown for Amnesty International on attitudes to abortion overall between 6 and 7 people in 10 of the sample here support abortion in certain circumstances.

The fact that new legislation could be created to take into account lethal foetal abnormalities and sexual crime is a positive step forward, yet further change needs to be delivered as soon as possible to ensure choice for women. It is also essential that victims and their rights are at the centre of this legislation and this legislation works effectively from them.

Need for legislation to deliver choice

NUS-USI wants legislation to be introduced in as soon as possible to ensure women are given the right to choice as regards reproductive matters.

Northern Ireland failing to allow choice runs against the region being a free, equality-driven and progressive society.

We strongly believe that politicians and government ministers can provide a pro-choice position while retaining the full integrity of their own personal religious beliefs. Having a pro-choice stance allows people to take their own decision.

It is important that politicians in Northern Ireland take the opportunity as soon as possible to deliver the legislation needed to ensure that it becomes a place where women have a choice.

The pressure that many women face because Northern Ireland does not allow choice on abortion is a matter of massive concern. Those who are anti-choice hold their view but do not present any means of assistance for those who are facing such pressure.

Politicians should represent every person in their constituency and not simply make decisions based on their own personal beliefs. Politicians are elected to represent

everyone in their constituency, not simply to represent people who share the exact same views as they do. Just because they don't themselves believe in an issue, doesn't mean that they should simply be able to deny others rights on that matter.

The fact that Northern Ireland is lagging decades behind the rest of the UK is shameful and sends out an extremely negative message about this region to the rest of the UK and the rest of the world.

Some of the legislation pertaining to abortion as regards Northern Ireland is from 1861. This is nothing short of ludicrous and illustrates the outdated and medieval approach to women's rights on this important issue.

The department and Minister should reflect upon the fact that legislation comes from 1861. Women were given the vote in 1928 and the fact that this legislation was created over 50 years before women were allowed to vote illustrates how unfair and how ridiculous this legislation is.

It's also worth bearing in mind that this piece of legislation was created around 50 years before Northern Ireland existed. How then does this legislation reflect the true thoughts of people in modern Northern Ireland? In fact this legislation was created some 127 years before this latest version of the Northern Ireland Assembly first sat.

NUS-USI believes that legislation should be created urgently to deliver choice for women in Northern Ireland. For the state to continue to deny choice maintains a very worrying precedent about the role of government in people's lives.

Lethal foetal abnormality

In the poll carried out by Milward Brown for Amnesty International on attitudes to abortion 60% of people surveyed believe that an abortion should be available when there is a fatal foetal abnormality.

The law should allow for abortion in cases of lethal foetal abnormality, and this would best be achieved by changing the law to allow choice for all women.

In terms of definitions of lethal foetal abnormalities, we would favour option four (Clinical judgement of incompatibility with life) as outlined in the consultation document as the best definition. We are encouraged that this is seen, as discussed within the consultation document, as the best option by the Department. It is also essential that the Department of Health provides legal guidelines to ensure that there is clarity and to protect healthcare professionals as well as the person involved. NUS-USI agrees that the best way is to allow clinical judgement to decide when a foetus is not compatible with life.

Sexual crime

NUS-USI believes that the law should also provide for abortion to be a choice in the event of rape. We believe that the law should allow abortion, not just for women who have been the victim of rape, as there should be choice on abortion for all women.

The law should allow for abortion for victims of other sexual crime.

Within the poll carried out by Milward Brown for Amnesty International on attitudes to abortion, 69% of people surveyed thought that abortion should be available if the pregnancy is due to rape, and 68% thought that abortion should be available if the pregnancy is due to incest.

It should not be necessary for victims to have made a complaint to the police before accessing a termination. It is essential that victims are believed, as many women potentially might not feel like they can go to the police.

The process should not be time limited, and a police report should not be required, as many women may potentially feel that they do not want to go to the police.

It is essential that the exemption should apply with no requirements other than a

declaration by the women to a medical practitioner that the pregnancy is as a result of a sexual crime committed against her.

In the case of incest the victim and statutory agency workers, like social workers and healthcare professionals, should determine that it has happened. Victims must be listened to and believed.

In terms of unintended consequences and safeguards, NUS-USI wishes to highlight part 7.4 of the consultation document which states "the inclusion of such 'safeguards' may, in fact, render the provision virtually inaccessible and ineffective, in addressing those circumstances where it might be most needed." It is essential that accessing an abortion is accessible and that the emphasis is on putting victims at the centre of this potential legislation. We want the law to be rigorous and to work for victims.

We would have massive concerns around the way this potential law could define who would, and would not, be allowed to have an abortion as a result of rape or incest. It is very important that the future law allows anyone who is a victim of sexual crime to have an abortion. We would be very worried that would involve significant bureaucracy if unnecessary safeguards were put in place.

Women should be able to have an abortion if they have made a declaration to a medical practitioner about the incident.

This potential legislation must deliver for victims and should not require them to take part in bureaucratic or possibly traumatic processes. This could lead to them, despite wanting an abortion, possibly not being able to access one because they might not wish to go through with the bureaucratic or possibly traumatic process required.

The emphasis within this legislation must be on assisting the victim, and should do everything possible to do so.

Please see attached document for further information.

Conscientious objection

As regards, conscientious objection, on this issue we would like to see the Abortion Act 1967's provision being utilised as the definition around conscientious objection. It is also essential that medical guidance is provided by DHSSPS to professionals, because there must be absolute clarity and there can be no delay in providing this.

The right of conscientious objection should be confined to involvement in the actual procedure and it should not cover participation in all treatments related to

the abortion, like pre and post procedure care as this would be totally unacceptable. The precedent contained in the most recent legal judgement in the Supreme Court in relation to this, Doogan and Wood v NHS Greater Glasgow and Clyde Health Board must apply. It would also be totally unacceptable if the right covered any associated duties like supervising and supporting other staff, delegating tasks as regards the provision of care to patients undergoing medical termination at any stage of this process.

Section 75 groups

We welcome the potential progress that these changes could deliver however the full policy context might still be against one of the Northern Ireland Act (1998) section 75 groups. We believe that women could still remain very significantly disadvantaged because an anti-choice stance has been maintained. We believe that women should have a choice as to whether they wish to have an abortion or not.

Legal matters

We believe that any legislation based upon what is being consulted on could potentially be open to significant legal challenge due to the fact that elsewhere in the UK women are afforded different

reproductive rights. This could potentially mean that the guidelines could be open to either a Judicial Review or a European Court challenge due to people in different parts of the UK receiving differential treatment as regards a fundamental and extremely significant health and wellbeing issue.

We believe that full reform of the abortion laws are essential to deliver the change that is needed to ensure choice for women.

Conclusion

While we welcome the fact that these proposed changes will make abortion law less restrictive, we want to see women given choice on reproductive matters.

If government can potentially make these positive changes, then the government must examine being more ambitious for change around the legislation to deliver choice for women.

Having choice will extend women's reproductive rights and help ensure that people are allowed to decide for themselves rather than potentially not having a choice.

We believe that this proposed legislation must ensure that any women that the sexual crime section relates to should not have to go through possibly traumatic or bureaucratic processes to be able to access an abortion. The emphasis on any future law should be on assisting victims.