Position on Abortion

Introduction

Midwives for Choice believes that abortion is a healthcare matter, not a legal matter. We do not advocate for or against abortion. Rather, we recommend that abortion procedures be governed by the same robust regulatory and ethical frameworks which govern all other healthcare procedures in Ireland. This would mean that decisions on treatment would occur in the same way that any other clinical decisions are reached, through discussion between the woman and her healthcare provider.

What is the current law on abortion?

A woman who ends her own pregnancy without the permission of doctors can be sentenced to fourteen years in prison under Irish legislation. Midwives for Choice believes that women should be trusted to make their own decisions about their own pregnancies. No woman should face prison for inducing a miscarriage, and no healthcare provider should be prosecuted for providing safe abortion care to a woman who requests it.

Both sides of the highly contentious abortion debate in Ireland support the decriminalisation of abortion. Evidence shows that taking abortion out of the criminal law does not change the numbers of women having abortions. With both sides in agreement on the matter, the Protection of Life During Pregnancy Act 2013 must be amended to decommission criminalisation.

Inscribed in the Constitution, the Eighth Amendment which gives recognition to the equal right to life of the pregnant woman and foetus governs abortion laws in Ireland. The Protection of Life During Pregnancy Act 2013 makes provision for the onerous punishment of a maximum fourteen years imprisonment for having or providing an abortion other than in circumstances described as a real and substantial risk to the life of the mother, including a risk arising from a threat of suicide. In no circumstances is abortion a woman's choice and no woman has the right to end a pregnancy in Ireland. Instead, the Act places decision-making about abortion with the medicalprofession, not women, by making it a minimum requirement that two doctors decide whether they think a woman should be allowed to end her pregnancy.

Is the legislation effective in banning abortion in Ireland?

Ireland's reliance on criminal law to punish women has not been an effective deterrent: any woman who feels desperate enough to end her own pregnancy will find a way to do so. As a consequence of criminalisation, Irish abortion has become a global phenomenon. Women living in Ireland travel to a wide range of places, in particular to Great Britain, to avail of abortion. According to the numbers giving an Irish address, a rate of more than ten women per day avail of abortion in British and Dutch clinics alone. In addition to those who do not disclose their Irish address to British and other international clinics, unknown numbers avail of bedroom abortion in Ireland through pills purchased on the internet. In 2014 alone, one thousand and seventeen abortifacient pills making their way into Ireland were seized by customs. The accessibility of this medication means the risk of women breaking the law is now greater than ever before.

Does the legislation harm women?

The Protection of Life During Pregnancy Act 2013 prevents the provision of the best possible medical care, thereby gravely undermining the health and safety of women. Creating a barrier that delays access to abortion, the law does not concur with the evidence which shows that the earlier in pregnancy an abortion is performed the lower the risk of complications. At approximately twenty-five safer than childbirth, abortion is a safe health care procedure, yet unsafe abortion continues to be one of the five major causes of maternal mortality globally. Criminalisation of abortion drives women to access abortion services which are neither safe nor legal, and which may prove harmful or even fatal. Access to safe abortion-related services can almost eliminate maternal deaths due to unsafe abortion. Decriminalisation of abortion is therefore essential so that women and girls have timely access to safe abortion-related services to reduce the possibility of the associated health risks and to ensure the regulation of abortion is managed in the same manner as all other women's health care procedures.

Pregnant women also need protection against bodily assault which results in the miscarriage of a foetus. The process of decriminalisation in other countries has shown that it is possible to ensure existing criminal law offences address such acts. As part of abortion law reform in Victoria, Australia, an amendment was made to the Crimes Act 1958 to clarify that the assault of a pregnant woman which causes the miscarriage of a foetus would fall within the definition of a 'serious injury' to the woman, carrying a sentence of up to twenty years imprisonment. Midwives for Choice believes that a similar amendment should be made in Ireland to ensure that the law fully recognises the harm caused to pregnant women by such acts.

If abortion is decriminalised in Ireland, would the number of abortions increase?

There is no evidence that decriminalisation would lead to an increase in Ireland's current numbers accessing abortion. No woman aspires to experience an unwanted pregnancy and undergo an abortion; on the contrary women try very hard to avoid unplanned pregnancy. Decriminalisation would not change that. Other jurisdictions such as Canada and Australia have removed abortion from criminal law without experiencing an increase in the rate of abortion.

What would decriminalisation mean for the abortion time limit?

No abortion time limit would be applicable in legislation. The vast majority of abortions worldwide take place during the first trimester of pregnancy and statistics show that late-term abortions are not chosen by women. In Canada where there is no legal limit placed on abortion, some 90 percent of abortions in 2014 were carried out in the first twelve weeks of pregnancy while less than 1 percent were carried out after twenty weeks. In England and Wales where provision for legal abortion is made up to twenty-four weeks, 92 per cent of abortions in 2015 were conducted before thirteen weeks gestation while 2 percent were conducted after twenty weeks. One of the main reasons for abortions after twenty weeks is lack of easy access to services.

There is no doubt that abortion post viability (from 24 weeks gestation) raises particular moral concerns for many people but there is no evidence that removing criminal sanctions leads to an increase in later terminations. Women do not wish to undergo later procedures, and doctors are unwilling to provide them outside of exceptional circumstances. This has been the experience in jurisdictions where abortion has been removed from the criminal law. Prior to 1990 in Scotland there was no abortion time limit. Despite the legality, there was not a greater proportion of late term abortions performed.

In England and Wales, 0.1% of abortions are conducted after twenty-four weeks gestation. These are carried out in hospital in cases of severe risk to the pregnant woman's life or health, or in cases of foetal anomaly. Thus these are overwhelmingly cases of wanted pregnancies where difficult decisions have to be made. The reality of abortion at this stage is via an injection of potassium into the foetal heart and subsequent induction of labour and birth. Post-viability dilation and evacuation of foetal products is a rare event, likely to be done in cases of extreme and urgent threat to a pregnant woman's life. Termination of pregnancy post-viability comprising induction of labour on maternal health grounds may lead to foetal survival depending on gestation. Midwives for Choice believes that decision-making on the management of these rare and challenging clinical cases must rest with the families in consultation with their health care team, out of the realm of criminal sanctions.

Who's decision is it anyway?

Women's informed choice is pivotal to high-quality and responsive sexual, reproductive and maternity care services, including choosing whether or not to proceed with a pregnancy. The concept of respect for human dignity and for women as persons with full human rights defines the unique role of midwives in promoting the health of childbearing women and their families. Women have the right to exercise control over their fertility and plan their families in accordance with their wishes. Accordingly, the International Confederation of Midwives (ICM) affirms that midwives must recognise the right of a competent and informed pregnant woman to make her own health care choices, including to end or continue her pregnancy, and they must provide information and counselling services according to the woman's needs. Likewise, the Nursing and Midwifery Board of Ireland affirms the woman as the primary decision-maker in her care who has the right to evidence-based information that helps her to make her own decisions.

Contrary to the values and ethics of midwifery, the Protection of Life During Pregnancy Act 2013 denies a woman the right to choose for herself to have an abortion. It places decision-making on abortion firmly with the medical profession: two doctors at minimum must decide whether the woman meets the criteria laid out in the Act. Midwives for Choice believes that in accordance with the values and ethics at the heart of midwifery, women must be respected and trusted to make their own decisions about their own pregnancies. To compel a woman to endure pregnancy and childbirth unless doctors give her legal authorisation to have an abortion is to deny her the fundamental right to control her own body, plan her own family and determine her own life course.

If criminalisation isn't effective, can we otherwise limit the uptake of abortion?

The recognition of abortion as a healthcare matter as opposed to a legal matter maximises the prevention of abortion. The Netherlands legislated for abortion on terms that respected women's autonomy in 1980. Building on their policy commitment to midwifery-based care in pregnancy and childbirth at community level, they took a strong primary healthcare organisational approach to integrate sexual and reproductive health services in recognition of the need for support and protection along the entire range of women's sexual and reproductive lives. The approach saw the development of abortion services and management of unsafe abortion complications. It also saw the development of related services including comprehensive family planning services; the prevention and treatment of infertility, reproductive tract infections, sexually transmitted diseases and other reproductive health conditions; and information, education and counselling on human sexuality, reproductive health and responsible parenthood. Furthermore, it embraced crucial work on sex and sexuality education beginning in the very first years of schooling and carried on through to secondary schooling. The outcome of the Dutch commitment, seen over a long period by now, is a very low rate of abortion compared with European and international data, and a very low rate of teenaged mothers compared with the EU average. Midwives for Choice advocates repeal of the Eighth Amendment and its replacement by the most expansive legal and policy framework based on the international evidence of effective abortion prevention and management, consistent with international human rights standards.

Is abortion part of the role of the midwife?

In accordance with the definition of the midwife, the International Confederation of Midwives articulates a vision of abortion and post-abortion care integrated into the full continuum of midwifery care—from sexual and reproductive health through pregnancy, birth and postnatal care. Affirming that a woman who seeks or requires abortion-related services is entitled to be provided with such services by midwives, the International Confederation of Midwives stipulates that such care is within the role of the midwife as defined by the laws and policies of her/his country.

Midwives play a key role in preventing unnecessary injuries and deaths from unsafe abortion by the provision of contraception, safe abortion and post-abortion care. The facilitation of abortion-related services including information provision, and physical and psychological care and support during and after miscarriage or abortion, is an essential competency for basic midwifery practice. Where well-

educated skilled midwives are authorised to do so, evidence shows their provision of essential reproductive health services including prescription, dispensing, furnishing or administering drugs (however authorised to do so in the jurisdiction of practice) in dosages appropriate to induce medication abortion, and performance of manual vacuum aspiration of the uterus up to twelve completed weeks of pregnancy, results in the decline of maternal mortality.

Can midwives decline to participate in abortion?

The 2013 Protection of Life During Pregnancy Act makes provision for the statutory right of all healthcare staff to conscientious objection to participation in abortion. Midwives with a conscientious objection to abortion may not impose their views on those who do not share them, however, they may explain their views to the woman if invited to do so. The Nursing and Midwifery Board of Ireland has requested that a midwife who has a conscientious objection based on religious or moral beliefs informs the woman, her line manager and employer as soon as possible to ensure alternative arrangements can be made to protect the woman. Midwives are obligated to provide care for women when there is a risk to life regardless of a conscientious objection until they are relieved of their duties.

Midwives for Choice believes that:

• Women should have equitable and timely access to all aspects of sexual and reproductive health care. Access to safe abortion services is a fundamental health care issue for women wherever they live.

• Every woman should have control over her own body and her fertility.

• Every woman should have the right to exercise choice over all aspects of her reproductive health care, including whether to have a baby or not.

• Every woman has the right to be given the necessary information to make an informed choice regarding her decision as to the continuation of pregnancy or not.

• Every woman has the right to be given good quality information, advice and support in a timely manner to make an informed choice regarding the opportunities provided within the law to terminate pregnancy.

• Abortion should be decriminalised and regulated in the same way as all other procedures relating to women's health care.

• The Eighth Amendment should be repealed and replaced by the most expansive legal and policy framework based on international human rights standards and scientific evidence of effective abortion prevention and management.

• It is within the scope of midwifery practice for midwives to work with women who are considering whether to terminate their pregnancy and who have made the decision to terminate their

pregnancy. Midwifery practice must always comply with the legal framework relevant to the provision of such services.

• The rights of midwives to hold a position of conscientious objection, as described in the Protection of Life During Pregnancy Act 2013, should continue to be recognised but should only apply to direct involvement in the procedure of terminating pregnancy. Midwives with a conscientious objection to abortion must not impose their views on those who do not share them.

• If midwives are to be advocates for women then they must advocate for choice on all aspects of their reproductive care. This is not about being for or against abortion; it is about being for women and respecting their choices about their bodies in the interest of their health and safety.

• Midwifery practice must always comply with the legal framework relevant to the provision of services for the termination of pregnancy.

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