

Amnesty International is a global membership-based human rights organisation, with 20,000 members in Ireland.

As part of our global My Body, My Rights campaign, we conducted research into states' criminalising sexual and reproductive freedom. On abortion, Ireland and El Salvador stood out as the key countries of focus, due to the harshness of their laws.

Our 2015 report, *She is Not a Criminal*, documented the harrowing experiences of women and girls in Ireland. We found multiple violations of their human rights, including their rights to health, non-discrimination, privacy, information, and freedom from torture or other ill-treatment.

We found that the Eighth Amendment the root cause. We also found that it harms pregnant women beyond denying them access to abortion - it severely limits their right to informed consent and bodily autonomy throughout pregnancy and childbirth.

While the Government could have scheduled a referendum without your deliberations, this Assembly is an important forum for discourse based on evidence and truth.

Independent polling we commissioned from Red C Research & Markets in 2016 shows that abortion is not as controversial or divisive as it is painted. The overwhelming majority – across all regions, ages and demographics - want expanded access to abortion.

We heard you say that you want to hear about solutions. The solutions we ask you to recommend are: a full repeal of the Eighth Amendment; full decriminalisation of abortion; and the introduction of a human rights compliant framework for access to, and information about, abortion.

I will begin by explaining how abortion is a human rights issue.

The international human rights framework was created by states, including Ireland.

Human rights are the cornerstone of the international rule of law, essential for states ensuring that all people live in dignity and freedom. They transcend political boundaries, and overarch religious or other ideology.

They are not 'imposed' on Ireland by the UN or Amnesty International or anyone else. Ireland helped create the UN's binding treaties, and voluntarily agreed to be legally bound by the treaties it ratified. Ireland elects the UN treaty monitoring bodies that guide states.

Women and girls have a human right to access safe and legal abortions

Their sexual and reproductive rights are core human rights. They have a right to control their own fertility, and to determine the number and spacing of their children. States must enable women to prevent unintended pregnancies where possible; and when such pregnancies occur, ensure they can make decisions based on full a range of healthcare options, including abortion.

Human rights treaty bodies are clear that women seeking abortions should not be criminalised, and that they have a right to access abortion, at a minimum where their health or life is at risk, they are pregnant as a result of sexual violence, or there is a diagnosis of a severe or fatal foetal impairment. These are often called 'minimum grounds'. To deny access results in grave violations of their human rights. States can, and do, go further than these grounds to better fulfil women's rights.

International human rights law does not apply before birth

We understand that some people oppose abortion based on deeply held principled positions. But international human rights law cannot be hijacked or misrepresented to serve that aim. The history of the UN human rights treaties, including the Convention on the Rights of the Child, shows that their right to life provisions only apply after birth.

Of course states are entitled to protect foetal interests, in the same way as they govern other areas not addressed by international human rights law. But without violating women's and girls' rights.

Abortions will always be needed – abortion bans do not actually stop abortions

The World Health Organisation confirms that, despite increased use of contraceptives, abortion services will always be needed. That restricting legal access to abortion does not decrease abortions – it increases the number of women seeking illegal and unsafe abortions, a point reinforced by the Guttmacher Institute here.

In Ireland's case, women and girls are taking abortion medication illegally, and thousands travel to the UK and elsewhere instead.

Those who lack the financial means, ability or legal permission to travel, or cannot access abortion medication, are forced to remain pregnant. They are deprived of reproductive choice and rights.

There is no conflict between women’s rights and others’ freedom of religious belief or conscience.

The international human rights framework was created to ensure that everyone’s rights are protected regardless of political or religious ideologies, and social or moral norms. States balance competing sets of rights. But one group’s freedom of religious belief or conscience cannot be allowed to violate the rights of women and girls.

This appears well accepted; our Red C polling found 82 per cent of people who consider themselves religious do not want their religious views imposed on others.

We need to start trusting – and empowering – women to make decisions about their own reproduction and sexuality.

Human rights standards put women’s individual autonomy at the centre of sexual and reproductive health. And in our polling, 68 per cent believe we need to trust women when they say they need an abortion.

So, to move to solutions, what is a human rights compliant abortion framework?

It is one that ensures safe and timely access to abortion services both in law and practice, and to all women and girls equally.

Firstly, abortion should be decriminalised

It should be regulated like any other medical service.

International human rights law says no woman should ever face criminal sanction for having an abortion. Some say criminalisation isn’t an issue as women here aren’t going to jail. But the law allows a 14-year prison sentence – and in Northern Ireland, women are being prosecuted. Criminal laws also contribute to severe stigma, as women we interviewed told us. They make women fear seeking post-abortion care. They can deter health professionals from providing even lawful abortions– the “chilling effect”.

Secondly, legislation framed around ‘minimum grounds’ will not guarantee effective access.

The Protection of Life During Pregnancy Act illustrates this. It provides no practical assistance to health professionals in assessing when a pregnancy poses a risk to life. In the words of Dr Rhona Mahony, Master of Holles Street, it forces doctors to play medical roulette with women’s health and lives.

The Act’s Guidance established burdensome procedures for determining a right to access abortion, particularly on the suicide ground. Miss Y’s case is a notable example of how such assessment procedures are unworkable, degrading and distressing. Miss Y was a young asylum-seeker pregnant as a result of rape who, despite being suicidal, was denied an abortion. She was forced to undergo an early delivery involving a major surgical procedure, against her will.

It is unlikely therefore that adding narrow ‘grounds’ to Irish law will facilitate meaningful access, even on those grounds. Instead, as with the 2013 Act, it’s likely that procedures and other barriers will be created that limit access and cause harm. And if we don’t fully decriminalise abortion, the chilling effect on doctors will remain.

International experience bears this out. Human rights treaty bodies have called on states that have legislated for minimum grounds, like Poland, and New Zealand, to liberalise their laws.

The Assembly must look to the emerging consensus among public health and human rights experts on best practice.

International human rights standards are evolving towards recommending abortion ‘on request’ at least in the early stages of pregnancy. For example, in September 2016, four UN experts issued a joint global statement on abortion. They recommended “the good practice found in many countries which provide women’s access to safe abortion services, on request during the first trimester of pregnancy”.

This is common sense. Access must be practical, not an obstacle course. Providing access to abortion on request in early pregnancy is the best way to avoid violating the rights of women and girls.

Abortion cannot be limited to early pregnancy, though. UN treaty bodies affirm that it must be provided later in pregnancy on minimum grounds, such as where the woman’s health or life is at risk, she is pregnant as a result of sexual violence, or there is a severe or fatal foetal impairment.

States may regulate abortion in later stages of pregnancy

They are not prohibited from applying reasonable restrictions, like gestational limits. However, restrictions may not be absolute. There must be flexibility to ensure that women's human rights are protected in later pregnancy. Many countries have no gestational limits for the minimum grounds.

As the Assembly heard at its last session, legislating for a ground of sexual violence is a complex issue. International experience is that this often requires women to almost prove they were raped, often denying them or delaying abortion. Access on general health grounds avoids such risks.

Conscience-based refusal must be regulated so it does not jeopardise women's and girls' rights.

Individual healthcare professionals - not institutions - may be able to decline to provide or participate in any health service to which they have a conscientious objection, including abortion. They must make a timely referral to another professional who will offer the service. But, conscience-based refusal is not unlimited, and cannot be exercised in emergency situations.

In conclusion, to properly understand the Eighth Amendment, we need to view it and Ireland's abortion laws against the historical suppression and control of women's sexuality and reproduction. Where the state and religious institutions subjected women and girls to strict, punitive social controls. Where stereotypes about women's roles in society and their sexual conduct were violently enforced through the Magdalene Laundries and Mother and Baby Homes.

We must look at abortion by today's standards -human rights standards. We need to allow women and girls to make decisions about their bodies, health and lives. Amnesty International urges you to recommend the Eighth Amendment be repealed, not amended. That abortion is fully decriminalised. And that we legislate for a human rights compliant framework for access to, and information, about abortion, as one essential element of a healthcare service that respects, protects and fulfils the human rights of women and girls.