

Universal Periodic Review of Ireland

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Joint submission by:

Abortion Rights Campaign Ireland

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Sex Workers Alliance Ireland



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Sexual Rights Initiative



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Executive Summary

1 In Ireland, legal, policy and regulatory barriers pose key challenges to the full realization of sexual and reproductive health and rights. Human rights violations stemming from Ireland’s criminalization of abortion services were raised repeatedly during the country’s last Universal Periodic Review (UPR) in 2011. In the intervening years, a series of developments have continued to highlight the harmful and coercive impact of these laws on the lives of women and girls, however, the Irish government has repeatedly failed to take satisfactory action to address this injustice. Access to abortion remains virtually inaccessible to women and girls in the Republic of Ireland, and is criminalized in the cases of rape, incest, fatal foetal abnormality and where the pregnancy poses a risk to the physical or mental health of a woman or girl. In 2014, Nigel Rodley, Chair of the UN Human Rights Committee stated that for Ireland to deny rape victims access to abortion services is to treat those women and girls as “vessels and nothing more.”¹ In 2015, the concluding observations of the UN Committee on Economic, Social and Cultural Rights (CESCR) recommended that Ireland “take all necessary steps, including a referendum on abortion, to revise legislation on abortion, including the Constitution and the Protection of Life During Pregnancy Act, in line with international human rights standards.”² During the examination the CESCR Committee also expressed concern at the “limited access to information on sexual and reproductive health” in Ireland. However, the government has not taken decisive action to address these concerns.

2 Furthermore, many young people and adolescents in Ireland are not receiving the comprehensive sexuality information and education necessary to protect their health and lives, including information on how to prevent unintended pregnancies and sexually transmitted infections (STIs) including HIV. Despite being mandatory in Irish schools since 2003, evidence indicates that the implementation of sexuality education programmes across the Irish school system is patchy and inconsistent, with weak or non-existent mechanisms for holding schools accountable for their obligation to deliver compulsory sexuality education programming.

3 Additionally, the general scheme of a new Criminal Law (Sexual Offences) Bill published by the Minister for Justice in 2014 includes provisions to criminalize the purchase of sexual services, in line with the “Swedish model”. The general scheme of the Bill has faced criticism from sex worker-led organizations voicing evidence-based concerns that following the “Swedish model” risks increasing violence and harm against sex workers through forcing the practice of buying and selling sex, further underground.

Progress and gaps in the implementation of recommendation from 1st cycle of UPR

4 Following Ireland’s first Universal Periodic Review (UPR) in 2011, the Government committed to consider almost 90% of the human rights recommendations made by other UN Member States. These included recommendations relating to

¹ The Irish Times 15 July 2014 *Irish solutions on women’s rights not enough for UN* Available from: <<http://www.irishtimes.com/news/politics/irish-solutions-on-women-s-rights-not-enough-for-un-1.1867197>> [accessed 15 August 2015]

² UN Committee on Economic, Social and Cultural Rights, Concluding Observations on the Third Periodic Report of Ireland, E/C.12/IRL/CO/3 Available from: <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fIRL%2fCO%2f3&Lang=en> [accessed 15 August 2015]

sexual and reproductive health and rights, in particular, ratification of the Convention on the Rights of Persons with Disabilities (CRPD), the availability and accessibility of contraceptive information and services, reform of the constitutional ban on same-sex marriage, promotion of gender equality in all spheres of society, and strengthening laws and policies to effectively address domestic violence.

5 However, four years onwards, consideration and implementation of these recommendations remains incomplete, though there have been some advancements. In May 2015, the Government held a referendum to amend the Constitution to extend civil marriage rights to same-sex couples, which passed with the support of 62% of those who voted.³ There has been less movement, and arguably some regression, in the areas relating to other recommendations. Ireland has still not ratified the CRPD and austerity measures have seen unprecedented cuts to services that enable people with disabilities to live independently.⁴ The dissemination of information on contraceptive services has not substantially advanced for adolescents and young people, and protection of victims of domestic violence has been challenged by cuts to frontline service provision⁵ and reports that the legal system is failing victims.⁶

6 Furthermore, in the State's Outcome Report following Ireland's first UPR hearing, six recommendations were rejected, all of which pertained to access to safe and legal abortion. While the state rejected a recommendation from the United Kingdom calling for Ireland to "introduce legislation to implement the European Court of Human Rights (ECtHR) judgment in the *A, B and C versus Ireland* case,"⁷ legislation was introduced in 2013 to give effect to the judgment. However, this legislation, the Protection of Life During Pregnancy Act 2013 (hereafter, "the Act"), fails to ensure Ireland's abortion regime is consistent with human rights standards, and has received direct criticism from the CESCR Committee in 2015, which called for it to be reformed. No positive steps have been taken towards implementing other UPR recommendations relating to abortion, and several developments run counter to them. For instance, as a result of the Act, procuring an abortion in Ireland outside the narrow confines provided for by the legislation, now carries a criminal penalty of up to 14 years,⁸ and amendments to the Act which would extend access to women or girls who have become pregnant as a result of rape or incest, or in situations where the pregnancy poses risks to the physical or mental health of the woman, were rejected by the Irish Parliament.

Background

7 The Irish government has taken limited action on access to safe and legal abortion services in response to the 2010

³ The Irish Times 23 May 2015 *Same-sex Marriage Referendum* Available from: <<http://www.irishtimes.com/news/politics/marriage-referendum>> [accessed 15 August 2015]

⁴ The Irish Times 30 March 2015 *Ireland must ratify the UN Convention on the Rights of People with Disabilities* Available from: <<http://www.irishtimes.com/opinion/ireland-must-ratify-un-convention-on-rights-of-people-with-disabilities-1.2157963>> [accessed 15 August 2015]

⁵ The Irish Times 18 June 2015 *Calls to Women's Aid about abuse rises to more than 16,000* Available from: <<http://www.irishtimes.com/news/social-affairs/calls-to-women-s-aid-about-abuse-rises-to-more-than-16-000-1.2253226>> [accessed 15 August 2015]

⁶ UTV 20 March 2015 *Irish legal system failing women living with domestic abuse* Available from: <<http://utv.ie/News/2015/03/30/Irish-legal-system-failing-women-living-with-domestic-abuse-34479>> [accessed 15 August 2015]

⁷ *Report of the Working Group on the Universal Periodic Review. Ireland* UN Doc A/HRC/19/9 Available from: <<http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session19/Pages/ListReports.aspx>> [accessed 15 August 2015]

⁸ Protection of Life During Pregnancy Act 2013. Act Number 35 of 2013. Available from <<http://www.oireachtas.ie/viewdoc.asp?fn=/documents/bills28/acts/2013/a3513.pdf>> [accessed 15 August 2015]

decision of the European Court of Human Rights in the case of *A, B and C v Ireland*,⁹ and in reaction to the tragic death of Savita Halappanavar who died in 2012 after being denied a termination for her miscarrying pregnancy.¹⁰ In 2013 it introduced legislation in the form of the Protection of Life During Pregnancy Act, which creates only a narrow exception to the Constitutional ban on abortion. The Act provides for access to abortion services only where a woman or girl's life, as distinct from her health, is at risk. Even for women whose circumstances meet the Act's restrictive criteria, the provisions of the Act are onerous and unworkable. Women and girls whose reasons for seeing a termination of pregnancy fall outside these narrow confines continue to be forced to either travel abroad to access services, to seek out illegal and possibly unsafe means of procuring an abortion, or to continue the pregnancy against their will.

8 Compounding this issue is the fact that many young people and adolescents in Ireland are not receiving the information necessary to protect their health and lives, including information on how to prevent unintended pregnancies. Sexuality and reproductive health education in Ireland is known as Relationships and Sexuality Education (RSE). Despite being mandatory in Irish schools since 2003, evidence indicates that implementation of the RSE programme across the Irish school system is uneven. A recent report by the Inspectorate at the Department of Education found evident weaknesses in the quality of RSE provision in 27% of schools surveyed.¹¹ RSE programming may also be limited to delivery through certain subjects, such as Biology and Religious Education, to the exclusion of students who have not elected to take these subjects. Since the RSE programme became mandatory in 2003, all schools have been required to put in place an RSE policy. However, the Inspectorate found that 44% of schools surveyed did not have an RSE policy, and stated that, "this is a cause for concern because a whole-school RSE policy is necessary to provide staff with clear guidelines for the management, organization and delivery of the RSE programme."¹²

9 The general scheme of new Criminal Law (Sexual Offences) Bill published by the Minister for Justice in 2014 includes provisions to criminalize the purchase of sexual services, in line with the "Swedish model". The new law targets consensual sex work as opposed to sex trafficking which is already illegal under the Criminal Law (Human Trafficking) Act 2008. Sex worker-led organizations have objected to the introduction of the Bill, criticizing the absence of consultation with sex workers themselves and the lack of attention to existing evidence and research. Recently, independent research carried out by Queens University in Belfast, Northern Ireland rejected the "Swedish model" and found that sex workers and the PSNI (police) agreed that criminalizing the purchase of sex would drive the purchase of sex underground, put the health and lives of sex workers at greater risk, and divert resources from sex-trafficking investigations.¹³

Problem identification

Constitutional prohibition of abortion

10 Article 40.3.3 (the 8th Amendment) of the Irish Constitution, which equates a pregnant woman's life with continued foetal development, remains the single greatest impediment to access to abortion services. It states that, "The State acknowledges the right to life of the unborn and, with due regard to the equal right to life of the mother, guarantees in

⁹ *A, B and C v. Ireland* App no 25579/05 (ECtHR, 16 December 2010) Available from: < [http://hudoc.echr.coe.int/eng?i=001-102332#{"itemid":\["001-102332"\]}](http://hudoc.echr.coe.int/eng?i=001-102332#{)> [accessed 15 August 2015]

¹⁰ The BBC 19 April 2013 *How Savita Halappanavar's death called attention to Irish abortion law* Available from: <<http://www.bbc.com/news/world-europe-22204377>> [accessed 15 August 2015]

¹¹ Inspectorate - Department of Education and Skills (2013) *Looking at Social, personal and Health Education: Teaching and Learning in Post-Primary Schools*. Dublin: Department of Education and Skills. Available from <<https://www.education.ie/en/Publications/Inspection-Reports-Publications/Evaluation-Reports-Guidelines/Looking-at-Social-Personal-and-Health-Education-Teaching-and-Learning-in-Post-Primary-Schools.pdf>> [accessed 15 August 2015]

¹² Ibid.

¹³ *Research into Prostitution in Northern Ireland*. Belfast: Department of Justice. Available from: < <http://www.qub.ac.uk/research-centres/iscts/filestore/Fileupload,481166,en.pdf>> [accessed 15 August 2015]

its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right".¹⁴ Legislation has been introduced to give effect to a 1992 Supreme Court ruling which established the right of women and girls in Ireland to access abortion services where their lives are at risk, including the risk of suicide. However, both the Supreme Court decision and the subsequent legislation prohibit access to abortion where there is a risk to a woman's health. This is a clear derogation of the right to health that can only be addressed by removing the prohibitive 8th Amendment. As with any Constitutional Amendment in the Republic of Ireland, a public referendum is required. Despite urgent recommendations from the ICESCR committee for the Irish government to hold a referendum, the government has repeatedly delayed and deferred taking action. Opinion polls have revealed a groundswell of support among the Irish people for repealing the 8th Amendment, and support is increasing for broadening the grounds for access to abortion. According to a recent Red C poll commissioned by Amnesty International, two-thirds (67%) of people surveyed favored decriminalizing abortion,¹⁵ 69% favored expanding access on the ground of rape, and 68% favored expanding access on the ground of a risk to health.¹⁶

11 Ireland's current Constitutional ban on abortion, considered in conjunction with an amendment stating that the government will not interfere with women and girls who obtain abortion services abroad, has the effect of discriminating against those who may be unable to travel. While abortion remains, except in the narrowest circumstances, illegal in Ireland, the extent to which women living in Ireland can access abortion currently depends on their financial means, whether they are able-bodied, their health status, geographic location, migration status, and age among other factors. Marginalized women, such as asylum seekers, poor women, young, rural and disabled women, bear the full burden of the State's abortion ban whereas privileged women can circumvent it, albeit often at a significant financial and emotional cost. Measures taken by the government in the form of the Protection of Life During Pregnancy Act have done nothing to address this gross inequity.

Flawed legislation

12 In 2013 the State introduced the Protection of Life During Pregnancy Act, ostensibly to (a) respond to the European Court of Human Rights (ECtHR) judgment in *A, B and c v Ireland* (2010); and (b) to finally give legislative effect to the 1992 Irish Supreme Court ruling in the X case that established a constitutional right to abortion if a woman or girl's life is at risk, including the risk of suicide. The reality, however, is that the Act does not adequately fulfill Ireland's obligations under the European Convention on Human Rights (ECHR), nor does it legislate for the full constitutional right established by the Irish Supreme Court in the X case. In addition, the Act is a clear derogation of the right to health, as it creates a false distinction between health and life, and does not provide for access to services where a woman or girl's health is at risk.

13 Furthermore, the assessment procedures set out in the Act are onerous, impractical and unworkable. Section 9, which deals specifically with cases where a pregnancy may constitute a risk to the woman's life by way of suicide, requires that three medical professionals—two psychiatrists and an obstetrician—certify that the woman's life is at risk in order for her to be able to access an abortion. If her request for an abortion is denied by any of these medical professionals, but still believes she is entitled to an abortion under the Act, she must appeal to a review panel whereby a further three medical professionals will adjudicate on her case. Additionally, given that the first point of care for many pregnant women is their general practitioner, a pregnant woman at risk of suicide could potentially have to make her case to seven medical professionals before she is granted her request for a termination. These extremely onerous

¹⁴ Irish Constitution. Art. 40.3.3. Available from < <http://www.irishstatutebook.ie/eli/1983/ca/8/enacted/en/print.html> > [accessed 15 August 2015]

¹⁵ The Irish Time 8 July 2015 *Abortion poll finds two-thirds favour decriminalization* Available from: <<http://www.irishtimes.com/news/social-affairs/abortion-poll-finds-two-thirds-favour-decriminalisation-1.2277540>> [accessed 15 August 2015]

¹⁶ The Irish Independent 21 September 2014 *Poll: Act now on abortion say voters* Available from: <<http://www.independent.ie/irish-news/politics/poll-act-now-on-abortion-say-voters-30602947.html>> [accessed 15 August 2015]

barriers to abortion access in cases of suicide risk do not constitute an “effective and accessible” procedure for assessing whether a woman qualifies for a legal abortion, as required by the ECtHR ruling in the A, B and C case, nor are they humane.¹⁷ These burdensome requirements discriminate against women and girls with mental health issues, compounding their vulnerability and placing their lives and health at greater risk. The UN Special Rapporteur on the Right to Health has criticized legislation that requires access to legal abortion to be approved by more than one health-care provider on the grounds that this necessarily restricts access.¹⁸

14 Not only are the Act’s provisions onerous, recent reports indicate that they are patently failing the most marginalized women and girls. Within a year of the commencement of the Act, the *Irish Independent* newspaper reported the case of a young asylum-seeking woman (known only as “Miss Y”) who was raped in her country of origin and discovered after arriving in Ireland that she had become pregnant as a result of the assault. She did not want to continue the pregnancy and sought advice on obtaining an abortion abroad but, because of her migration status, she was unable to leave the State freely. Unable to access a termination, she became increasingly distressed and then suicidal. After many weeks of engagement with the State health system, she was eventually assessed under the Protection of Life During Pregnancy Act. Although certified as suicidal, she was apparently refused an abortion at 24 weeks’ gestation on the premise that the foetus was, by that stage, potentially viable. She then went on hunger strike, and a High Court injunction was sought to forcibly hydrate her. Her pregnancy was eventually terminated by caesarean section at just under 26 weeks’ gestation. It is not yet clear what information was provided to the young woman about her right to access a termination under the legislation.¹⁹ It is deeply concerning that the first known application of the Act should result in a case that would appear to demonstrate that abortion, even under the strict circumstances permitted by the new Act, is not accessible in practice. Her case also illustrates how the Irish government’s failure to substantively address the issue of equitable access to abortion translates into coercion, and inhuman and degrading towards women and girls.

Criminal penalties

15 Section 59 of the 1861 Offences Against the Person Act, now obsolete, criminalized abortion with a sentence of life imprisonment.²⁰ The Protection of Life During Pregnancy Act restates the criminalization of abortion in all cases except where there is a “real and substantial risk” to the woman’s life, which can only be averted by terminating the pregnancy. Abortion in all other cases, including where there is a serious risk to the woman’s health, carries a potential fourteen-year prison sentence. This restatement of the criminal prohibition of abortion is dangerous and unnecessary and contravenes human rights norms.

16 In 2014 the UN Human Rights Committee expressed grave concern over the criminalization element in the Act,²¹ suggesting that it was not compatible with Ireland’s obligations under the International Covenant on Civil and Political

¹⁷ *A, B and C v. Ireland* App no 25579/05 (ECtHR, 16 December 2010) Available from: < [http://hudoc.echr.coe.int/eng?i=001-102332#{"itemid":\["001-102332"\]}](http://hudoc.echr.coe.int/eng?i=001-102332#{)> [accessed 15 August 2015]

¹⁸ Interim report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, A/66/254, para 24, Available from: <<http://www.un.org/en/ga/third/66/documentslist.shtml>> [accessed 15 August 2015]

¹⁹ The Irish Times 22 August 2014 *Terms of inquiry set into care of woman in abortion case* Available from: <<http://www.irishtimes.com/news/social-affairs/terms-of-inquiry-set-into-care-of-woman-in-abortion-case-1.1905586>>, and Irish Independent 19 August 2014 *Baby delivered as woman refused abortion under law* Available from: <<http://www.independent.ie/irish-news/health/baby-delivered-as-woman-refused-abortion-under-law-30512513.html>> [accessed 15 August 2015]

²⁰ Offences Against the Person Act, 1861, Available from: <<http://www.irishstatutebook.ie/1861/en/act/pub/0100/print.html>> [accessed 15 August 2015]

²¹ UN Human Rights Committee, Concluding Observations for the Irish State, CCPR/C/IRL/CO/4, Available from: <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fIRL%2fCO%2f3&Lang=en> [accessed 15 August 2015]

Rights (ICCPR). This year, the Committee on Economic, Social and Cultural Rights, echoed this concern and made specific recommendations for the Government to hold a referendum to revise its abortion legislation.²² The UN Committee Against Torture (UNCAT) has also expressed specific concern for the criminal penalties in Ireland's abortion laws and has cautioned that it may give rise to a violation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.²³ Finally, the UN Special Rapporteur on the Right to Health has recommended the immediate removal of criminalization of and legal restriction on sexual and reproductive health-care services, including abortion, in all states.²⁴

Inequitable access to abortion services

17 The Irish Constitution guarantees that the state will not interfere with women and girls seeking abortion services in other jurisdictions, however, this cannot be seen as satisfying the State's human rights obligations. Forcing women to travel to access necessary health-care services is hypocritical and disproportionately affects women at various sites and intersections of disadvantage. The State's Constitution effectively permits abortion through Article 40.3.3, which recognizes that the constitutional right to life afforded to "the unborn" does not limit the freedom to travel in and out of the State. However, the combination of these provisions places the full emotional, psychological and financial costs of such an arrangement (travel, accommodation and childcare costs, lost income arising from leave from work, isolation, and stigma, among other burdens) on the woman or girl herself.

18 In its General Recommendation 24 on Women and Health, the CEDAW Committee identified that respecting the right to health for women and girls requires the removal of laws that "criminalize medical procedures only needed by women."²⁵ However, in Ireland women and girls are patently discriminated against in having to travel and pay for access to a health service, a limitation not placed on men's access to the highest attainable standard of health. The reality is that for many women living on the margins of Irish society, they simply will not have the resources and support structures to effectively exercise their right to travel to access reproductive health care abroad. Forcing women to access abortion facilities abroad also disrupts the continuum of clinical care, as a woman's own doctor will not necessarily be able to communicate with the medical practitioners she engages with abroad. This creates a lack of medical continuity, which may negatively impact on women's health and welfare. Coupled with fear of repercussions including social stigma and criminal prosecution, this creates a chilling factor which deters some women from seek post-abortion medical care or check-ups, including where they are experiencing complications.

19 In 2014 at least 3,735 women and girls travelled from the Republic of Ireland to Britain to access abortion services.²⁶ As noted above, the Thirteenth Amendment to the Irish Constitution provides for a negative right to travel for abortion

²² UN Committee on Economic, Social and Cultural Rights, Concluding Observations on the Third Periodic Report of Ireland, E/C.12/IRL/CO/3 Available from: <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fIRL%2fCO%2f3&Lang=en> [accessed 15 August 2015]

²³ Committee Against Torture, Concluding Observations for the Irish State, CAT/C/IRL/CO/1, Available from: <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fIRL%2fCO%2f1&Lang=en> [accessed 15 August 2015]

²⁴ Interim report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health, A/66/254, para 24, Available from: <<http://www.un.org/en/ga/third/66/documentslist.shtml>> [accessed 29 September 2014]

²⁵ UN Committee on the Elimination of Discrimination Against Women (CEDAW) *General Recommendation No. 24: Article 12 of the Convention (Women and Health)*, 1999, A/54/38/Rev.1, chap. I, Available from: <<https://www1.umn.edu/humanrts/gencomm/generl24.htm>> [accessed 8 September 2015]

²⁶ *Abortion Statistics, England and Wales: 2014* June 2015, Available from: <<https://www.gov.uk/government/statistics/report-on-abortion-statistics-in-england-and-wales-for-2014>> [accessed 15 August 2015]

services, with no positive obligations for the state to facilitate equitable access to travel.²⁷ A discriminatory two-tier system has been created within Ireland's abortion regime, where women with financial resources and support can travel abroad to access appropriate health care. Women on the margins of Irish society, however—very often the women whose agency has also been limited in other ways—have no effective means to vindicate their rights. They simply cannot access abortion services. The Irish State allows women to travel abroad but it provides no financial or administrative support. Thus, in Ireland, it cannot be said that the State authorities have fulfilled the requirement to provide “economically accessible” health care in line with the principle of non-discrimination. On the contrary, Ireland's current abortion laws result in flagrant inequity. This inequality was specifically referred to by the UN Human Rights Committee in its recent Concluding Observations on Ireland's compliance with the ICCPR, which identified “the discriminatory impact of the Protection of Life During Pregnancy Act on women who are unable to travel abroad to seek abortions”.²⁸

20 An inestimable number of women in Ireland now illegally procure abortions in their homes with abortifacient pills ordered online. In 2012 the Irish Medicines Board (now the Health Products Regulatory Authority) seized 487 such pills.²⁹ Although this represents a decrease on previous years, these figures still probably represent only the tip of the iceberg of the true volume of such pills being imported by people in Ireland, as many packages are successfully delivered. In short, abortion has always been a global phenomenon and is an incontrovertible reality for thousands of women and girls in Ireland today.

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Comprehensive Sexuality Education

21 Repeated studies carried out by Ireland's Crisis Pregnancy Agency and the Department of Health and Children reveal that adolescents and young people report failure on the part of teachers delivering Relationships and Sexuality Education (RSE) to discuss the practice of safe sex, and broader social and emotional aspects of well-being and sexuality; young participants interviewed also demonstrated a continued lack of knowledge concerning sexually transmitted infections, contraception and negotiating healthy relationships.^{30,31,32} Research results acknowledge that some young people become sexually active before the legal age of consent.³³ Because of a lack of clarity on whether the Department

²⁷ Irish Constitution. Art. 40.3.3. Available from < <http://www.irishstatutebook.ie/eli/1983/ca/8/enacted/en/print.html>> [accessed 15 August 2015]

²⁸ UN Human Rights Committee, Concluding Observations for the Irish State, CCPR/C/IRL/CO/4, Available from: < http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fIRL%2fCO%2f3&Lang=en> [accessed 29 September 2014]

²⁹ Fiona Gartland, 'Fall in seizures of drugs that induce abortion', Irish Times, 27 May 2013, Available from: < <http://www.irishtimes.com/news/environment/fall-in-seizures-of-drugs-that-induce-abortion-1.1407015>> [accessed 15 August 2015]

³⁰ Hyde, A. & Howlett, E. (2004) *Understanding Teenage Sexuality in Ireland*. Dublin: Crisis Pregnancy Agency. Available from: < <http://www.dcy.gov.ie/docsdm/documents/No.9-Reportinterior.pdf>> [accessed 15 August 2015]

³¹ Mayock, P. & Byrne, T. (2004) *A Study of Sexual Health Issues, Attitudes and Behaviours: the Views of Early School Leavers*. Dublin: Crisis Pregnancy Agency. Available from: < <http://crisispregnancy.ie/wp-content/uploads/2012/05/8.-a-study-of-sexual-health-issues-attitudes-and-behaviours-the-views-of-early-school-leavers.pdf>> [accessed 15 August 2015]

³² Mayock, P., Kitching, K., & Morgan, M. (2007) *Relationships and sexuality education in post-primary schools: Challenges to full implementation*. Dublin: Crisis Pregnancy Agency/Department of Education. Available from: < <https://www.education.ie/en/Publications/Education-Reports/Relationships-and-Sexuality-Education-RSE-in-the-Context-of-Social-Personal-and-Health-Education-SPHE-An-Assessment-of-the-Challenges-to-Full-Implementation-of-the-Programme-in-Post-primary-Schools.pdf>> [accessed 15 August 2015]

³³ Layte, R., McGee, H., Quail, A., Rundle, K., Cousins, G., Donnelly, C., Mulcahy, F. & Conroy, R. (2006) *The Irish Study of Sexual*

of Education and Skills is legally entitled to provide particular information on contraception and safe sex before students reach the legal age of consent, the sex education these young people received was delivered too late, and therefore not effective.

22 Though reports from the Department of Health and the Department of Education and Skills have generated useful data on the degree of implementation of RSE programming in Ireland, and taken positive steps to explore the programme's effectiveness, many of these reports are based on samples. The lack of a national monitoring and evaluation framework for RSE remains one of the chief barriers to accurately assessing and addressing the degree of implementation of the programme, and its effectiveness. There also does not appear to be a working mechanism to hold schools accountable for instituting an all-school RSE policy, and delivering the RSE programme, despite the fact that the Department of Education recognized the provision of sexuality education as a rights obligation under the terms of Article 11.2 of the European Social Charter in a circular issued to post-primary schools.³⁴

23 Additionally, emphasis on students' rights neglects the right of young people outside the formal education system. Failure to systematically provide marginalized adolescents and young with comprehensive sexuality education compounds their marginality, deepens the social exclusion they experience, and jeopardizes their futures, lives and health. Finally, in a context where access to abortion remains extremely restricted and almost entirely inaccessible for young women and girls, the Irish State should put in place systematic policy and educational measures in an effort to reduce unintended pregnancy.³⁵

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Sex work

24 Currently, sex work in Ireland is not illegal, however virtually all associated activities are criminalized, making sex workers disproportionately vulnerable to coercion and violence in their daily work. Street-based workers may be prosecuted for loitering or for soliciting, making it difficult to work overtly where they may be safer. Sex workers are deterred from working together indoors where they may be safer, as they may be prosecuted for operating a brothel. Current legislation also contains some provisions for targeting clients, but these laws have not had the effect of deterring demand.

25 Opposition to the general scheme of the new Criminal Law (Sexual Offences) Bill has come mainly from sex worker-led organizations including the Sex Workers Alliance Ireland (SWAI). The general scheme Bill includes provisions to criminalize the purchase of sexual services, in line with the "Swedish model". Under this model, though the act of sex workers selling sex is not explicitly criminalized, sex workers can still be criminalized under other laws such as brothel-keeping (i.e. working with another sex worker) and loitering. The new law targets consensual sex work as opposed to sex trafficking which is already illegal under the Criminal Law (Human Trafficking) Act 2008. Sex worker-led organizations have objected to the introduction of the Bill, criticizing the absence of consultation with sex workers themselves, the lack of attention to existing evidence and research, and the failure to commission research into potential impact. Chief concerns with the potential negative impact of the "Swedish model" approach include concerns that it will lead to greater risk taking, and increase exploitation and violence as sellers move to more isolated areas and disengage with outreach and social services.³⁶

Health and Relationships. Dublin: Crisis Pregnancy Agency/Department of Health and Children. Available from: <<http://www.ucd.ie/issda/static/documentation/esri/isshr-report.pdf>> [accessed 15 August 2015]

³⁴ DES circular 0037/2010, Available from: <http://www.education.ie/en/Circulars-and-Forms/Active-Circulars/cl0037_2010.pdf> [accessed 15 August 2015]

³⁵ See, e.g., Fiji, 67, U.N. Doc. CRC/C/FIJ/CO/2 (2014); Morocco, 67, U.N. Doc. CRC/C/MAR/CO/3 (2014); India, 66, U.N. Doc. CRC/C/IND/CO/3 (2014); Australia, 46, U.N. Doc. CRC/C/15/Add.268 (2005).

³⁶ Levy, J. (2014) *Criminalising the Purchase of Sex: Lessons from Sweden*. Abingdon: Routledge.

Recommendations for action:

Immediately amend the 2013 Protection of Life During Pregnancy Act to remove the criminal penalties for women or girls who procure unlawful abortions and those who may assist them.

Hold a referendum to allow the Irish public to vote to repeal article 40.3.3 (the 8th Amendment) of the Irish Constitution, thereby removing the legal impediment to legislating for broadened access to abortion.

Ensure schools fully comply with mandatory requirements to institute a Relationships and Sexuality Education (RSE) policy, and ensure delivery of the RSE programme in full in all Irish schools.

Introduce a national monitoring and evaluation framework to assess the implementation and effectiveness of the RSE programme.

Systematically extend the RSE programme to ensure access to sexuality information and education for marginalized adolescents and youth outside the formal education system.

Ensure laws governing the age of consent do not infringe on young people's rights to receive sexuality and reproductive health information and education.

Remove provisions contained in the general scheme of the new Criminal Law (Sexual Offences) Bill 2014 that criminalize the purchase of sex.

Repeal laws that criminalize sex workers and introduce legislative and other measures to protect the health and safety of sex workers, following consultation with sex workers to ascertain what they need.

Ensure that any law that will impact on the lives of sex workers is informed by extensive research including consultation with sex workers and sex worker-led organizations.