Written Evidence submitted by Amnesty International UK and the Family Planning Association for the Northern Ireland Affairs Committee's inquiry into Devolution and democracy in Northern Ireland – dealing with the deficit (DDD0032)

1. Executive Summary

1.1 This paper outlines the impact of Northern Ireland’s abortion law. In the absence of a Northern Ireland Executive and a functioning Northern Ireland Assembly, the UK Government announced that women from Northern Ireland would no longer be charged to access abortion services in England. Whilst this was a welcome form of remedy reform of Northern Ireland’s restrictive abortion law is needed to comply with the United Kingdom’s human rights obligations. Given the significance of this issue, Amnesty International submits this further paper, in partnership with FPA. We welcome the opportunity to provide oral evidence before the NIAC and would be happy to submit any additional information should the NIAC find it of assistance.

2. Introduction

2.1. Amnesty International UK is a national section of a global movement of over seven million supporters, members and activists. We represent more than 230,000 supporters in the United Kingdom, including thousands in Northern Ireland. Collectively, our vision is of a world in which every person enjoys all of the human rights enshrined in the Universal Declaration of Human Rights and other international human rights instruments. Our mission is to undertake research and action focused on preventing and ending grave abuses of these rights. We are independent of any government, political ideology, economic interest or religion.

2.2 Amnesty International UK (AIUK) and FPA welcome this opportunity to contribute to the work of the Northern Ireland Affairs Committee (NIAC) in its assessment of the democratic deficit in the absence of functioning devolved government and the consequent impact on communities and individuals. This submission addresses some of the questions asked by the NIAC, namely scope for intervention by the UK Government. We welcome the opportunity to provide oral evidence on this matter before the NIAC and would be happy to submit any additional information should the NIAC find it of assistance.

2.3 FPA is one of the UK’s leading sexual health charities. Our mission is to champion people’s right to sexual and reproductive health and wellbeing through advocacy, campaigning, education and information. We do this through providing evidence-based sexual health information to the public and professionals. We campaign in respect of reproductive rights, and provide pregnancy choices and post abortion counselling, support and information services. In the five-year period from 2012/13 to 2016/17, 1,346 appointments were made for these services in Northern Ireland.

3. Abortion law in Northern Ireland
3.1 The 1967 Abortion Act, which applies in England, Scotland and Wales but not Northern Ireland, is not human rights compliant. It does not decriminalise abortion but instead provides exceptions in certain circumstances for women and doctors. 2017 marked 50 years of the 1967 Act and 50 years of differential treatment for women in Northern Ireland.

3.2 In Northern Ireland, abortion is only lawful in extremely limited circumstances, in particular where there is a risk to a woman or girl’s life or the risk of real and serious long-term or permanent damage to her physical or mental health. That makes the legal regime governing abortion in Northern Ireland one of the most restrictive in Europe and carries the harshest criminal penalties in Europe.

3.3 Northern Ireland abortion laws have been repeatedly found by UN treaty monitoring bodies to be in significant violation of the various Human Rights treaties the UK is state party to. Although health and justice are devolved matters, ensuring that the human rights of all UK citizens are upheld is a Westminster responsibility. The particular position of Northern Ireland women and girls seeking abortion is highlighted recently by the decision of the UK Government in June 2017 to provide free abortions for women from Northern Ireland in England. Amnesty and FPA, alongside others, has worked with the Departments of Equalities and Health to give practical effect to this policy. This work included advising on pathways into the NHS and service providers/clinics and addressing issues such as accommodation, travel and ensuring access for marginalised women.

3.4 We welcome that the policy change has provided a form of much needed remedy for Northern Irish women; however, this is no substitute for abortion law reform in Northern Ireland. Therefore, further action by the UK Government is required.

4. Impact on women

4.1 There were 16 abortions performed in hospitals in Northern Ireland during 2015/16. Official figures show that during the same period 724 women and girls from Northern Ireland travelled to England and Wales for an abortion in 2016. However this number does not reflect those women who give the address of a friend or relative in England and those who purchase abortion pills online.

4.2 Since 2006, a non-profit, online telemedicine service called Women on Web has provided early medication abortion in countries where abortion is restricted. Since 2010 (the first year for which data are available) the number of women from Northern Ireland and the Republic of Ireland requesting early medication abortion through Women on Web has more than tripled, from 548 in 2010 to 1,748 in 2016.

4.3 Buying or taking this medication outside a clinical setting is a criminal offence throughout the UK and there has been an escalation in the number of women from Northern Ireland being prosecuted under Victorian legislation.

4.4 In April 2016 a woman was handed a three month suspended sentence for self-inducing an abortion because she could not afford the cost of travel to England and the expense of a private procedure.

4.5 In January 2017, a man and a women accepted formal cautions under the Offences Against the Person Act 1861 for the same offences. Charges were withdrawn against the pair after a judge
imposed a ban on identifying the woman due to the heightened risk of suicide resulting from any publicity surrounding the case.  

4.6 In the same month a woman being prosecuted for procuring abortion pills online for her 15 year old daughter was granted a judicial review into the decision of the Public Prosecution Service to pursue the prosecution.  

4.7 A number of other individuals are also awaiting trial and on International Women’s Day 2017, the Police Service in Northern Ireland carried out a number of searches connected to the purchase of abortion medication online.  

4.8 Women who seek support and information from FPA on their pregnancy choices or post abortion counselling face the prospect of running a gauntlet of anti-choice protesters in order to access services. In a busy public street, protestors accuse women of murdering their baby, follow them to their car, force leaflets with potentially distressing information such as “abortion does not unrape the mother, it makes her the mother of a dead baby” into their hands, bless the entrance of the building with holy water and leave women feeling accosted, intimidated, and harassed.  

4.9 Amnesty’s research ‘Barriers to accessing abortion services’ highlights the obstacles in law, policy and practice that women face. This includes abortion stigma which includes regular public demonstrations—and in some instances harassment—outside sexual and reproductive health service providers in Northern Ireland, such as FPA. The harassment takes the form of both veiled and open threats to healthcare providers working in these organizations and the women who use their services  

5. **Impact on healthcare professionals**  

Section 5 Criminal Law act (NI) 1967 creates the offence of withholding information if a person knows or believes an offence has been committed. Section 5 may therefore make it a criminal offence for a healthcare professional or charities such as FPA who provide pregnancy counselling to fail to disclose information to the police where they become aware that a woman has taken or obtained abortifacient medication.  

Although disclosure in circumstances of confidentiality may well constitute a reasonable excuse for not reporting, the law and the Guidance for Health and Social Care professionals are unclear on this point.  

However, if section 5 is enforced strictly, healthcare professionals may be placed at risk of prosecution. If healthcare providers and charities are at risk of criminal prosecution for providing services, it may not be viable for them to continue to do so. This would leave Northern Ireland without an organisation providing non-directive pregnancy choices counselling as outlined in the abortion guidelines.  

The ongoing criminal prosecutions in these circumstances are having a much wider effect, in that those who do acquire online pills, are less likely to feel they can seek medical or support services, which in turn aggravates the risk to their health and wellbeing.  

6. **International human rights standards**  

6.1 As a signatory to UN conventions, the UK has repeatedly been criticised on its failure to meet its duties in regard to reproductive rights in Northern Ireland.
6.2 In their most recent report in 2013 the Committee on the Elimination of Discrimination against Women recommended that, “the State party should expedite the amendment of the anti-abortion law in Northern Ireland with a view to decriminalizing abortion. The State party should also ensure that legal abortion covers not only cases of threats to the life of a pregnant woman but also other circumstances, such as threats to her health and in cases of rape, incest and serious malformation of the foetus.”

6.3 In 2015 the Human Rights Committee recommended, “The State party should, as a matter of priority, amend its legislation on abortion in Northern Ireland with a view to providing for additional exceptions to the legal ban on abortion, including in cases of rape, incest and fatal foetal abnormality.”

6.4 In July 2016 the Committee on Economic, Social and Cultural Rights expressed concern that termination of pregnancy in Northern Ireland is still criminalised in all circumstances except when the life of the woman is in danger, which could lead to unsafe abortions and disproportionately affects women from low-income families who cannot travel to other parts of the United Kingdom. The Committee recommended, “The State party amend the legislation on termination of pregnancy in Northern Ireland to make it compatible with other fundamental rights, such as women’s rights to health, life and dignity.”

6.5 In the same month the Committee on the Rights of the Child recommended that the State party, “Decriminalize abortion in Northern Ireland in all circumstances and review its legislation with a view to ensuring girls’ access to safe abortion and post-abortion care services.”

7. **Intervention from the UK Government**

7.1 On 29 June 2017 the UK Government announced that women from Northern Ireland would no longer be charged to access abortion services in England. This is an important step that will make a significant difference to women in Northern Ireland, but it is no substitute for reform of Northern Ireland’s restrictive abortion law.

7.2 Legal reform is needed to ensure that all aspects of healthcare and criminal law in relation to the provision of information about and access to abortion services are brought into compliance with the United Kingdom’s human rights obligations. This is particularly important in the absence of functioning devolved government in Northern Ireland.

**Recommendations**

1. UK government legislates, or works with a functioning Northern Ireland Executive, to reform the law governing access to abortion in Northern Ireland so that it fully complies with international human rights standards. This must include the decriminalisation of abortion;

2. UK government supports the decriminalisation of abortion across the UK during this Parliamentary term;

3. UK Government establish safe access zones outside sexual and reproductive healthcare facilities to ensure women seeking information, support and counselling or making individual reproductive choices can do so with confidence, free from the threat of intimidation, harassment and assault.

We would welcome the opportunity to expand on this response during an oral evidence session.

*15 January 2018*