Written submission from Irish Congress of Trade Unions (ANI0300)

Background

1. The Irish Congress of Trade Unions (ICTU) is the umbrella organisation for trade unions on the island of Ireland representing 832,000 workers affiliated through 64 trade unions in Northern Ireland and the Republic of Ireland.

2. ICTU is required, through its mission statement, to strive to achieve economic development, social cohesion and justice by upholding the values of solidarity, fairness and equality.

3. The Northern Ireland Committee (NIC) of the ICTU is the representative body for 34 trade unions with over 215,000 members across Northern Ireland. In membership terms, it is the largest civil society organisation in NI representing workers across the public and private sector. Over half of our membership are women.

4. We welcome the Select Committee’s decision to open an inquiry into the issue of abortion law in Northern Ireland and are pleased to submit evidence; we would be pleased to further engage with the Committee.

Summary of submission:

- The ICTU has been campaigning for reform of abortion legislation in Northern Ireland for many years; To reflect our work, we have included, as an appendix, details of the motions passed at our delegate conferences over the last decade. The motions highlight how the trade union movement’s policy position has changed to respond to the changing policy and societal context. From an early motion which called for the extension to Northern Ireland of the 1967 act (2010), to a call to support progressive campaigns such as #TrustWomen (2016), to the current call to abolish the laws which decriminalise women (2018).

- We consider that the current laws are incompatible with International Human Rights Obligations;
• We believe that the UK Government, as the responsible State Party must act to remedy these breaches of rights; Where devolved administrations fail to uphold human rights, provisions in the Northern Ireland Act give UK Ministers power to intervene to protect people from such gross discrimination. In our view, this is such a case.

• Even if a fully functioning Assembly were in place, but failed to act to rectify this injustice, it would be incumbent upon the UK government to protect women in Northern Ireland. The fact that the Assembly remains suspended makes the case for immediate UK legislative action even stronger.

• The Belfast/Good Friday Agreement guaranteed equivalency of rights across the island of Ireland. The UK Government is a co-guarantor of the B/GFA along with the Irish Government. The imminent change in legislation in the Republic of Ireland following on from the Constitutional referendum means that there will be a clear breach in rights equivalence.

• Findings from recent research indicates that abortion is a significant workplace issue for many women;

• Findings from the same research indicates that 61% of respondents agreed / strongly agreed with the statement that the current restrictions on abortion access were cruel and inhumane;

• Findings from recent opinion polls shows that the majority of the Northern Ireland population favour reform of abortion law. The 2018 Amnesty International poll shows 65% of the NI public in favour of legislative change.¹

5. The Irish Congress of Trade Unions has been campaigning for abortion law reform in Northern Ireland for many years. We consider that the legislation on abortion in Northern Ireland is some of the most restrictive and carries some of the harshest criminal penalties in Europe. Under this legislative framework, women are forced to make unbearable decisions about their reproductive health, often in very tragic circumstances.

6. ICTU Policy is determined at our policy setting conferences including our Biennial Delegate Conferences and at our Biennial Women’s Conferences. Through these forums, delegates representing many thousands of workers vote on motions brought forward for consideration.

7. ICTU policy in respect of this matter has been clearly established at these delegate conferences. Appendix one shows resolutions which have been carried at Delegate Conferences since 2010.

8. The Irish Congress of Trade Unions works closely with allies in civil society and fully supports the work of campaigning groups such as Alliance for Choice.

9. In 2016 the Irish Congress of Trade Unions gave evidence to the Inquiry carried out by the Committee for the Elimination of Discrimination Against Women on Abortion Law in Northern Ireland. In our evidence, we noted:

   We would like to highlight the impact that the restrictive abortion laws in Northern Ireland have on women as workers, particularly in relation to the rights that are protected under article 11 of the (CEDAW) convention.

   The ICTU has heard testimony from women who have been forced to travel to England to access an abortion and the huge financial and emotional burden that this has placed on them. In particular, we have been extremely concerned to hear about how this has impacted on them as workers.

   Because of the hugely restrictive legislation here, women have been unable to tell their employer about the circumstances of their absence from work.

   This can mean that women are forced to take sick leave either during or after their abortion. This can also mean that on their return to work, that an absence management process has been enacted and that they have to attend an interview with their employer to explain why they were absent from work. Because they are unable to reveal the true reason, the woman may be forced into a deception, thus increasing the level of trauma and distress.
Furthermore, for women in vulnerable part time employment, the situation can be even more difficult. For women on zero or low hour contracts, if they find that they are unable to present at work when called for, they could find themselves faced with disciplinary proceedings or at worst dismissal.

The state party has a duty, under article 11 of the convention, to take all appropriate measures to eliminate discrimination against women in the field of employment and to safeguard women’s health and safety in working conditions, including the safeguarding of the function of reproduction. We regard the UK Government’s failure to legislate on this matter as a serious breach of these and other rights protected under the convention and will continue to work alongside our allies in civil society to press for change.

10. In 2016, a group of trade unions commissioned a ground-breaking piece of research. The research was carried out by the Ulster University under the direction of Dr Fiona Bloomer and was published in 2017. The Abortion as a Workplace Issue report\(^2\) is the first of its kind in the world; by engaging with trade union members in Northern Ireland and the Republic of Ireland, through an online survey and focus groups, the research team concluded that the issue of abortion impacts significantly on the workplace.

Of the 3,180 respondents, 2,031 were from NI.

Key findings from NI included:

- 61% agreed / strongly agreed with the statement that the current restrictions on abortion access were cruel and inhumane.
- 85% stated a woman should not have been arrested and prosecuted for having an abortion
- 19% had direct experience of abortion as a workplace issue

Of those with direct experience:

• 43% struggled to pay for the costs
• 24% wanted time off after the abortion but couldn’t afford to lose wages
• 12% needed time off and were able to get sick pay
• 9% They needed time off and used unpaid leave

11. The research offered respondents the opportunity to tell their story and a number of people chose to do so. Here are some of those stories.

“I personally had an abortion just last year and struggled to afford it. I couldn’t get any time off after either as I work as an agency nurse and do full time hours and could not afford to take the time off afterwards.” (25-44/female/NI)

“I did not disclose to anyone in the workplace. This was not through any shame over my decision. It was because my case was very complicated due to fatal foetal abnormality and I was very low and could not face the several questions disclosing the information would entail. I also understood there would be judgement so I wasn't in a strong enough position to have to explain my actions nor did I feel I should justify them as it wasn't anyone's business. I feel it may have been handled differently because I just told senior management I lost my baby when I was put under a lot of pressure to return to work after a short spell off. Their response was what I expected. They told me they would get help and support for me but nobody to this day ever contacted [me]. I definitely think unions need to have discussions with employers to put policies in place to keep them safe as well as employees”. (30s/female/NI)

“I have had both miscarriage and an abortion while an employee and the difference was striking – I could tell my employer about the miscarriage and got sick leave and support but felt there was no way I could tell my employer about the abortion. The stigma is still very strong.” (25-44/female/NI)

“I would be wary of encouraging anyone to discuss the procedure with an employer in the present climate as abortion is governed by criminal law in NI and the threat of prosecution is very real. Therefore, it is not only extremely difficult for the person
undergoing the procedure to discuss it openly but it may also put the employer in a position of having knowledge of a potentially criminal act. This situation emphasises the hypocritical state of abortion law in NI.” (50s/female/NI)

12. In August 2018, ICTU and the TUC wrote a joint letter to the Prime Minister. In this letter, we reiterated our call for the UK Government to act to remedy the breach of women’s human rights in Northern Ireland noting:

The UK government is obliged to act to remedy breaches of International Human Rights treaties. The Committee for the Elimination of Discrimination Against Women (CEDAW) has repeatedly expressed serious concern in relation to the near ban on abortion in Northern Ireland. CEDAW says thousands of women and girls in Northern Ireland are subjected to grave and systematic violations of rights through being compelled to either travel outside Northern Ireland to procure a legal abortion or illegally self-administer abortion pills without legal recourse to emergency health services.

In a recent statement, the Committee noted the duties on the UK government as the responsible state party. The Committee is of the firm view that the UK government has a responsibility to act to ensure the availability of abortion for women in Northern Ireland.

Where devolved administrations fail to uphold human rights, provisions in the Northern Ireland Act give UK Ministers power to intervene to protect people from such gross discrimination. In our view, and that of the Committee, this is such a case.

Finally, you will also be aware as co-guarantor, that a key principle of the Belfast/Good Friday Agreement was equivalency of rights across the island of Ireland; once legislation is enacted following the recent referendum in Ireland, women in Northern Ireland will be denied the rights available to all other women on these islands. The need to ensure the equivalence of rights across Ireland provides another case for UK government action on this issue.
Even if a fully functioning Assembly were in place, but failed to act to rectify this injustice, it would be incumbent upon the UK government to protect women in Northern Ireland. The fact that the Assembly remains suspended makes the case for immediate UK legislative action even stronger.

In calling for reform, the trade union movement joins many leading human rights organisations, professional bodies and NGOs including the Northern Ireland Human Rights Commission, an inter-departmental group of the Northern Irish government, the UN Committee on the Elimination of Discrimination Against Women, the Royal College of Midwives, the Royal College of Obstetricians and Gynaecologists, Amnesty International Northern Ireland, the NI Family Planning Association and Alliance for Choice.

We call on you to commit the UK government to ending this gross violation of human rights by legislating to ensure that women in Northern Ireland have access to free, safe and legal reproductive healthcare. Devolution should not be used as an excuse for inaction.

Conclusion

The Irish Congress of Trade Unions commends the Women and Equalities Select Committee for launching this Inquiry into abortion law in Northern Ireland.

It is clear that a majority of the Northern Ireland public believe that the current laws on abortion are inhumane and outdated; It is also clear that women in society and in the workplace are suffering because of those same laws.

In conclusion, the ICTU would reiterate our call for the UK Government to act without delay to ensure that women in Northern Ireland can access the same services as women in the rest of the UK and can do so at home, surrounded by their family and friends.

December 2018
Appendix One.

Motions carried at ICTU Delegate Conferences.

ICTU Womens conference 2010

Extension of 1967 Abortion Act

The women’s committee of Unite calls on the ICTU to actively encourage the Irish Trade Union Movement to support the ‘Alliance for Choice’ campaign, to extend the 1967 Abortion Act to N. Ireland. Reproductive rights for women have been central to their transformation within our society and we are appalled that the 1967 Abortion Act has still not been extended to N. Ireland. We continue to receive a restrictive reproductive health care provision which is available to our counterparts in the rest of the UK. It has now been reported that London has become the Abortion Capital of Ireland, with 1,500 women from N. Ireland and an estimated 5,000 from ROI travelling there for the procedure and paying £2,000 in costs. We can no longer ignore inequality when there is no justification, it is discrimination which needs the support of the trade union movement.

ICTU Womens Conference 2016

Conference recognises that the introduction of the contraceptive pill and access to abortion have transformed women’s lives — increasing control over when, and if, to have children and so boosting women’s employment and education prospects, incomes and opportunities. Barriers to reproductive rights are barriers to full social, economic and political equality, which makes the right to access abortion a clear Trade Union issue.

Conference notes that access to sexual and reproductive health services is crucial to women’s health and well-being. It is also an international requirement under CEDAW. Termination of pregnancy is lawful in Ireland, but under highly restricted circumstances; forcing 5,000 women per year to travel to Britain and beyond to access health care services.

Conference welcomes the ICTU’s endorsement and full support of the Trade Union campaign to repeal the 8th amendment to the Constitution. Women comprise more than half of the trade union membership in Ireland and it is unacceptable that they live in a country where the law puts their health and lives at risk, criminalises them and forces them
to travel abroad to avail of safe and legal abortion services. The Trade Union Campaign demands a referendum be held early in 2016.

Conference calls on the executive council to:

- Continue to support the Trade Union campaign to repeal the 8th amendment
- Lobby all political parties in the Republic to fully commit to holding a referendum to remove Article 40.3.3 from the constitution early in 2016
- Support Alliance for Choice’s ‘Trust Women’ campaign which seeks to make abortion an election issue in the run up to the 2016 May elections to Stormont
- Lobby all political parties in Northern Ireland to give MLA’s a free vote should abortion legislation come before Stormont that increases access to these vital services
- Encourage the mobilisation of trade union members on this issue in both jurisdictions

Women deserve better than this from our political leaders. We need abortion provision in this country that protects and respects women’s lives, health and choices.

**Northern Ireland Committee ICTU (NIC ICTU) Biennial Delegate Conference 2016**

**Alliance for Choice – Trust Women Campaign**

Conference applauds the Alliance for Choice campaign – ‘Trust Women’, and calls on all candidates in the forthcoming Assembly elections to:

- TRUST WOMEN to make decisions about their own lives
- Ask for LEGAL CHANGE to allow greater access
- Push for a FREE VOTE on any progressive changes

**NIC ICTU BDC 2018**

**Abortion**
Conference, in 2016 the Committee for the Elimination of Discrimination against Women (CEDAW) conducted a confidential investigation into allegations of grave and systematic violations suffered by women in Northern Ireland as a result of archaic and punitive legislation governing reproductive rights. The investigation heard evidence from civil society, including from Congress and a range of affiliates.

The report of their investigation was published in February 2018 and makes damning reading finding that:

The situation in Northern Ireland constitutes violence against women that may amount to torture or cruel, inhuman or degrading treatment and further that denial of abortion and criminalisation of abortion amounts to discrimination against women because it is a denial of a service that only women need.

The Committee has made 13 recommendations for action, including the establishment of a mechanism to advance women’s rights concerning access to sexual and reproductive health including access to safe abortions.

Policy supporting the urgent reform of abortion legislation in Northern Ireland has been determined at previous Biennial Delegate Conferences, including in 2016 and Congress has joined our allies in vigorously pursuing this course of action.

Conference is therefore dismayed that the NI Executive has systematically failed to bring forward progressive reform of reproductive rights legislation.

Conference commends the affiliate unions that supported a ground-breaking research project which examined Abortion as a Workplace Issue. The research was carried out by Ulster University and surveyed some 3,180 trade union members finding that

*What emerged clearly...was that this is a crucial issue for contemporary society. As the trade union movement is the largest civil society organisation in Ireland, North and South...52% of whom are women, unions have a responsibility to help inform wider societal views on abortion, abortion access and legal reform.*

Conference calls on the incoming Northern Ireland Committee to:
• Continue to campaign to ensure that women have access to reproductive rights;
• Continue to campaign for the urgent reform of punitive and outdated laws governing abortion in Northern Ireland;
• Continue to support organisations such as Alliance for Choice and their Trust Women campaign;
• Consider the recommendations of the Impact of Abortion on the Workplace and how these can be brought forward.