

The Reality

Although abortion is a criminal offence in Ireland, this does not deter Irish women from having abortions. Between January 1980 and December 2010, at least 147,912 women travelled from the Republic of Ireland for safe abortion services abroad. This number is based solely on the number of women and girls who choose to disclose their address and is therefore regarded as a significant underestimation.

Women for whom travel is impossible because of financial hardship or immigration reasons are resorting to illegal methods of terminating their pregnancies in Ireland. The Irish Medicines Board's disclosure that 1,216 illegal packets of abortion inducing drugs were seized by Irish Customs Authorities in 2009 substantiates the anecdotal evidence from health care providers that an increasing number of women are ordering medication online to self-induce abortions.

The Irish Human Rights Commission and the Women's Health Council have also noted with concern an increase in women seeking illegal abortions in Ireland.

The Law

The 1861 Offences Against the Person Act is the basis for the criminalisation of abortion in Ireland. Under the Act, the punishment for women who "unlawfully procure a miscarriage" is life imprisonment.

In 1983, the Irish Constitution was amended acknowledge the "right to life of the unborn". The Supreme Court interpreted this amendment in 1992 to permit abortion in Ireland when there is a real and substantial risk to the life of the pregnant woman. This includes the risk of suicide.

The 1992 Supreme Court judgment has never been given effect through legislation and therefore doctors have no statutory guidance to determine when an abortion can lawfully be performed in Ireland.

The law does not allow for lawful termination of pregnancy when the woman's health is at risk, where the pregnancy is a result of rape and/or incest, where the foetus will not survive outside the womb or where the pregnant woman decides that continuation of the pregnancy is not in her or her family's best interests.

It is not against the law for women to travel abroad to access abortion services or to access information on safe and legal abortion services in other countries from an Irish service provider.

Public Opinion

Opinion polls and research consistently show increased support for access to legal abortion within Ireland. A 2004 Crisis Pregnancy Agency study found that 90% of 18-45 year olds support abortion in certain circumstances, with 51% stating that women should always have to right to choose an abortion. In 2007, an Irish Times Behaviour and Attitudes Poll found that 54% of women believe the Government should act to permit abortion. In 2010, an Irish Examiner/Red C Poll found that 60% of people supported legal abortion and three in five people aged 18-35 believed abortion should be legalised. Also in 2010, a Marie Stopes/YouGov opinion poll indicated that 79% of those questioned were in favour of liberalisation of Irish abortion laws in certain circumstances.

ABC v Ireland

Three women, supported by the IFPA, are challenging Ireland's ban on abortion in the European Court on the grounds that the law jeopardised their health and their wellbeing in violation of their rights under the European Convention on Human Rights.

The women lodged a complaint to the Court in August 2005 and an oral hearing of the case was heard on December 9, 2009 before the Grand Chamber of 17 judges in Strasbourg, France. The women, known as A, B & C, argued that Ireland has breached their human rights under Articles 2 (Right to Life), 3 (Prohibition of Torture), 8 (Right to Respect for Family and

Private Life) and 14 (Prohibition of Discrimination) of the European Convention on Human Rights.

European Court of Human Rights

The European Court of Human Rights ("the European Court") is an international court that was set up in 1959. It rules on individual or State applications alleging violations of the rights set out in the European Convention on Human Rights. The European Court is an institution of the Council of Europe which consists of 47 Member States. The European Court is separate from the institutions of the European Union.

Facts of the Case

Applicant A was living in poverty when she became pregnant unintentionally. At that time, Applicant A had children in the care of the State as a result of personal problems. The year preceding her pregnancy, Applicant A was improving her personal circumstances and had been in constant contact with social workers with a view to regain custody of her children. She considered a further child at this critical moment in her life would jeopardise the successful re-unification of her family and decided to travel to England for an abortion. Applicant A paid for the abortion by borrowing from a money lender.

Applicant B became pregnant unintentionally. Upon consultation with a doctor, she was informed that she could be at risk of an ectopic pregnancy, a life threatening condition in which the foetus develops outside the uterus. Applicant B was not prepared to become pregnant at this time or to run the risks associated with an ectopic pregnancy. She travelled to England for an abortion.

Applicant C had undergone chemotherapy for three years to treat cancer. When the cancer went into remission, Applicant C became pregnant unintentionally. Unaware of her pregnancy at this time, Applicant C underwent a series of tests, contraindicated during pregnancy, to determine her current state of health. Upon learning of her pregnancy, Applicant C was unable to find a doctor willing to make a determination as to whether her life would be at risk if she continued the pregnancy to term or how the foetus might have been affected by the tests she had undergone. Given the uncertainty of the risks involved, Applicant C travelled to England for an abortion.

IFPA Position

As a specialist sexual and reproductive health care provider, the IFPA provides information, support, counselling and health care to thousands of women and girls facing crisis pregnancies each year. In our experience, women and girls with crisis pregnancies make decisions based on what is best for them and their families in their particular circumstances. Our counsellors, doctors, trainers and staff have extensive knowledge of the extreme physical, financial and emotional hardship for women forced to travel abroad for health care they believe should be available to them at home. Such hardship is often compounded by poverty, literacy and language difficulties, travel restrictions for migrant and asylum seeking women, sexual violence, stigma, stress, unsupportive family and friends, and/or diagnosis of severe or fatal foetal abnormality.

The IFPA believes that a woman's decision to terminate her pregnancy is an intimate aspect of private life, intricately linked with human rights values and principles that protect a woman's sexual and reproductive rights. These rights include the right to health, life, privacy, non-discrimination and to be free from cruel and degrading treatment. The criminalisation and inaccessibility of safe and legal abortion in Ireland constitutes a violation of women and girls' human rights.

The Role of the IFPA in ABC v Ireland

The IFPA's primary role in ABC v Ireland is to provide professional, specialist counselling and emotional support to the Applicants in the case. The IFPA is not a formal applicant in ABC v Ireland but is however assisting the Applicants' legal team led by Julie F. Kay. The IFPA is also acting as the communications focal point for the Applicants for all media inquiries.