

Abortion & Ireland: The Statistics

Although abortion is a criminal offence in Ireland, this does not deter Irish women from accessing abortion.

It is important to note that these statistics are accepted to be an underestimation of the number of women travelling abroad to access safe and legal abortion services and also does not include the number of women obtaining medication to self-induce abortions in Ireland.

- 4,402 women from the Republic of Ireland are recorded as having an abortion in England & Wales in 2010.
- 31 women from the Republic of Ireland are recorded as having an abortion in the Netherlands in 2010.
- 1,216 illegal packets of abortion inducing drugs are seized by Irish Customs in 2009.

1980 – 2010

Utilising the statistics from the UK DOH for England and Wales and the Crisis Pregnancy Programme for the Netherlands for the years 1980 - 2009, an estimated **147,912** women resident in Ireland have had an abortion abroad.

Timeline of Major Legal Events Affecting Abortion in Ireland

1861 Offences Against the Persons Act

Section 58 Criminalises women who "procure a miscarriage". The punishment is penal servitude for life.

Section 59 Criminalises helping a woman "procure a miscarriage". The punishment is penal servitude for three years.

1983 Referendum on the Eight Amendment to the Constitution

Article 40.3.3 is inserted into the Irish Constitution to read: "*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 its laws to respect, and, as far as practicable, by its laws to defend and vindicate that right*".

1992 X Case

A 13 year old girl, known as X, becomes pregnant as a result of rape. With the support of her parents, X travels to England for an abortion. The Attorney General seeks and is granted an order from the High Court preventing X from leaving Ireland for a period of nine months. X and her parents return to Ireland to contest the order. X expresses her intention to commit suicide if forced to continue with her pregnancy. On appeal, the Supreme Court rules that "*if it is established that there is a real and substantial risk to the life, as distinct from the health, of the mother, which can only be avoided by the termination of her pregnancy, such termination is permissible*".

1992 Open Door & Well Woman v Ireland

The European Court of Human Rights rules that Ireland violated Article 10 of the European Convention on Human Rights guaranteeing freedom of expression. The Court found that the Irish courts' injunction against Open Door and Well Woman from receiving or imparting information on abortion services legally available in other countries was disproportionate and created a risk to the health of women seeking abortions outside the State.

1992 Referenda

The Government puts forward three amendments to the Constitution to be added to Article 40.3.3 (noted above)

To nullify the X Case decision by removing the risk of suicide as a grounds for obtaining a legally permissible abortion in Ireland - **REJECTED**

Freedom to travel between the State and another state to obtain an abortion - **PASSED**

Freedom to obtain or make available information related to abortion services lawfully available in another state, subject to conditions - **PASSED**

1997 C Case

A 13 year old girl, known as Miss C, is raped and becomes pregnant. The Eastern Health Board takes C into its care and in accordance with the girl's wishes, obtains orders from the District Court to take C abroad for an abortion. C's parents challenge these orders in the High Court. The High Court rules that as Miss C was likely to take her own life if forced to continue with the pregnancy, she was entitled to an abortion in Ireland by virtue of the Supreme Court judgement in the 1992 X Case. Miss C travels to England for the abortion.

2002 Referendum

Irish voters reject the Twenty-fifth Amendment of the Constitution (Protection of Human Life in Pregnancy) Bill, 2002 which would remove threat of suicide as a ground for abortion and increase the penalties for helping a woman have an abortion.

2006 D v Ireland

The Applicant, known as D, was pregnant with twins, one of whom died in the womb and the other had fatal abnormalities. D, unable to terminate the pregnancy in Ireland, travelled to England for the termination. D argued that Ireland's ban on abortion in the case of fatal foetal abnormalities violated Articles 1, 3, 8, 20, 13 and 14 of the

European Convention on Human Rights. The European Court of Human Rights rules the case inadmissible because the case did not go through the Irish Courts (exhaustion of domestic remedies principle). The Irish Government relies on the argument that in the Applicant's particular circumstances, she *could* have been legally entitled to an abortion in Ireland had she gone through the Irish courts system.

2007 Miss D

A 17-year-old woman, known as Miss D, with an anencephalic pregnancy is in the care of the Health Service Executive (HSE). The HSE social workers attempt to prevent Miss D from travelling to England for a termination. Miss D challenges these restrictions in the High Court. The High Court rules that Miss D has a right to travel.

International Human Rights Bodies Comments on Abortion in Ireland

- **2008 UN Human Rights Committee**

"The Committee reiterates its concern regarding the highly restrictive circumstances under which women can lawfully have an abortion in the State party."

- **2008 Council of Europe Commissioner for Human Rights Report on Ireland**

"The Commissioner is concerned that despite the already existing case law allowing for abortion under limited circumstances, no legislation is in place to ensure this happening in practice."

- **2005 UN Committee on the Elimination of Discrimination Against Women**

"The Committee reiterates its concern about the consequences of the very restrictive abortion laws under which abortion is prohibited except where it is established as a matter of probability that there is a real and substantial risk to the life of the mother that can be averted only by the termination of her pregnancy."

- **2000 The UN Human Rights Committee**

"The State party should ensure that women are not compelled to continue with pregnancies where that is incompatible with obligations arising under the Covenant (art. 7) and General Comment No. 28."

- **1999 UN Committee on the Elimination of Discrimination Against Women**

"The Committee is concerned that, with very limited exceptions, abortion remains illegal in Ireland. Women who wish to terminate their pregnancies need to travel abroad. This creates hardship for vulnerable groups, such as female asylum seekers who cannot leave the territory of the State."

Restrictions on Abortion as a Global Human Rights Issue

- **2008 Council of Europe Parliamentary Assembly Resolution 1607 "Access to Safe and Legal Abortion"**

"A ban on abortions does not result in fewer abortions but mainly leads to clandestine abortions, which are more traumatic and increase maternal mortality and/or lead to abortion "tourism" which is costly, and delays the timing of an abortion and results in social inequities. The lawfulness of abortion does not have an effect on a woman's need for an abortion, but only on her access to a safe abortion."

- **2007 Tysiac v Poland at the European Court of Human Rights**

A Polish woman who is visually impaired was denied an abortion to protect her physical health. Several doctors concluded that continuing her pregnancy posed a serious health risk but refused to issue the necessary certificate for the pregnancy to be terminated. Tysiac was forced to carry her pregnancy to term and her eyesight predictably deteriorated further. The Court held that the Polish government failed to fulfil its obligations to ensure the applicant's right to respect for her private life (Article 8).

- **2005 KL v Peru at the UN Human Rights Committee**

In 2001, KL, a 17-year-old Peruvian woman carrying a foetus with a fatal anomaly (anencephaly), was denied a therapeutic abortion by Peruvian health officials, despite Peruvian law allowing pregnancy termination for health reasons. The young woman was compelled to carry the foetus to term and was then forced to breast feed the baby until the baby's inevitable death several days later. The following year, KL filed a complaint seeking a remedy under the ICCPR UN Human Rights Committee for State officials' failure to protect her right to be free from inhumane and degrading treatment, among others.

In 2005, the Committee issued its ruling on KL v. Peru, establishing that denying access to legal abortion violates women's most basic human rights. This decision marked the first time that an international human rights body held a government accountable for failing to ensure access to legal abortion services.