



SUBMISSION TO

THE CITIZENS' ASSEMBLY

ON BEHALF OF

THE LIFE INSTITUTE

FRIDAY, 16TH DECEMBER 2016

1. INTRODUCTION

The Life Institute supports the protection of all human life. Accordingly, in this submission we hope to illustrate the virtues, achievements and importance of the 8th Amendment of the Constitution of Ireland. We aim to highlight the benefits of that provision, in terms of what it prevents and what it accomplishes, which can sometimes be obscured in an environment where the People tend to be presented with more negative than positive comment about it.

We begin our submission with an overview of some of the various steps in the development of unborn children, with particular emphasis on the earliest stages of development.

2. OUR EARLIEST STAGES

It is generally accepted as a matter of medical scientific fact that human life begins at conception, also known as fertilisation.¹ Dr. Robert Siudmak, a former abortion doctor, put the matter very clearly:

“As a doctor I know, as do my colleagues, that life begins at conception. That life begins at the moment of conception is no longer a matter of personal opinion. It is an established medical fact. And this fact is not in dispute in any reputable medical textbook anywhere in the world. At the moment of conception, a distinct, living, and whole human being is formed.”²

The following is also instructive:

“The zygote...contains 46 unique chromosomes with the entire genetic blueprint of a new individual. Chromosomes contain tightly packed, tightly coiled molecules called DNA.... DNA contains all the instructions needed for this single-cell embryo to develop into an adult.”³

Dr. Dianne Irving observes, in a passage headed ‘Basic human embryological facts’:

¹ See for example Webster and de Wreede, *Embryology at a Glance* (2nd ed, 2016) p. 2.

² The video in which this statement appears is available to view at <http://clinicquotes.com/former-abortionist-life-begins-at-conception/> (the typed version on that website of what Dr. Siudmak said is partly inaccurate, so the text above is instead taken directly from what he states in the video).

³ The Endowment for Human Development (www.ehd.org/dev_article_unit1.php#fb1) [source citations contained in the above quotation are omitted above].

“...a human being is the immediate product of fertilization. As such he/she is a single-cell embryonic zygote, an organism *with 46 chromosomes*, the number required of a member of the human species. This human being immediately produces specifically human proteins and enzymes, directs his/her own further growth and development *as human*, and is a new, genetically unique, newly existing, live human *individual*.”⁴

She goes on to explain:

“...scientifically there is absolutely no question whatsoever that the immediate product of fertilization is a newly existing human being. A human zygote *is* a human being. It is *not* a "potential" or a "possible" human being.”⁵

In addition, she clarifies:

“Please note that the scientific facts presented here are not simply a matter of my own opinion. They are direct quotes and references from some of the most highly respected human embryology textbooks, and represent a consensus of human embryologists internationally.”⁶

Human development begins at fertilisation.⁷ Moore, Persaud and Torchia refer to “the structural changes of a human from fertilization to adulthood”.⁸ They note:

“Human development is a continuous process that begins when an oocyte (ovum) from a female is fertilized by a sperm (spermatozoon) from a male.... Cell division, cell migration, programmed cell death (apoptosis), differentiation, growth, and cell rearrangement transform the fertilized oocyte, a highly specialized, totipotent cell, a zygote, into a multicellular human being. Most changes occur during the embryonic and fetal periods; however, important changes occur during later periods of development: neonatal period (first 4 weeks), infancy (first year), childhood (2 years to puberty) and adolescence (11 to 19 years). Development does not stop at birth; other changes, in addition to growth, occur after birth...”⁹

⁴ Irving, “When do Human Beings Begin? “Scientific” Myths and Scientific Facts” *International Journal of Sociology and Social Policy* (1999) 19:3/4:22-36 (available at <https://www.princeton.edu/~prolife/articles/wdhbb.html>) (italics in original).

⁵ *Ibid.* (italics in original).

⁶ *Ibid.*

⁷ Moore, Persaud and Torchia, *The Developing Human: Clinically Oriented Embryology* (10th ed, 2016) pp. 1 and 11 and text accompanying Figure 1-1 on p. 2.

⁸ *Ibid.*, p. 4.

⁹ *Ibid.*, p. 1.

They note that the zygote formed at fertilisation “marks the beginning of each of us as a unique individual.”¹⁰ It “is the beginning of a new human being.”¹¹ It “contains all the genetic information necessary for directing the development of a new human being.”¹² A child’s sex is determined at fertilisation.¹³ Implantation of the early embryo in the uterus begins at the end of the first week and is completed by the end of the second week.¹⁴ Except where otherwise indicated expressly, all references in this Submission to the time at which a particular event occurs in prenatal development are dated from fertilisation, as the embryo only comes into existence at that point. In contrast, obstetricians may date pregnancy from the presumed first day of the woman’s last normal menstrual period, which is approximately two weeks *before* fertilisation.¹⁵ All statements about embryonic age should indicate which of these reference points is used.¹⁶

The embryo’s heart begins to beat three weeks after fertilisation.¹⁷ The heartbeat can be detected during the fourth week using Doppler ultrasonography.¹⁸ Development of the stomach is underway four weeks after fertilisations¹⁹ as is development of the respiratory system.²⁰ Upper limb buds are recognisable at Day 26 or 27 and lower limb buds become visible just after.²¹ Rapid development of the brain and facial prominences occurs in the fifth week.²² The embryo’s hand plates are formed at five weeks; foot plates are formed just after and pigment is then visible in the retina.²³ Development of the lower limbs occurs during the sixth week, four to five days later than that of the upper limbs.²⁴ Moore, Persaud and Torchia note:

“Embryos in the sixth week show spontaneous movements, such as twitching of the trunk and developing limbs. It has been reported that embryos at this stage show reflex responses to touch.”²⁵

¹⁰ Ibid., p. 11; Webster and de Wreede, *Embryology at a Glance* (2nd ed, 2016) p. 21.

¹¹ Moore, *Before We Are Born: Essentials of Embryology*, (7th ed, 2008) p. 2.

¹² Moore, Persaud and Torchia, *The Developing Human: Clinically Oriented Embryology* (10th ed, 2016), p. 7.

¹³ Ibid., p. 29.

¹⁴ Ibid. pp. 39 and 46.

¹⁵ Ibid. p. 87.

¹⁶ Ibid.

¹⁷ Moore, Persaud and Torchia, *The Developing Human: Clinically Oriented Embryology* (10th ed, 2016) p. 3 (Figure 1-1) and p. 62.

¹⁸ Ibid., p. 63.

¹⁹ Moore, Persaud and Torchia, *The Developing Human: Clinically Oriented Embryology* (10th ed, 2016) p. 211.

²⁰ Webster and de Wreede, *Embryology at a Glance* (2nd ed, 2016) p. 66.

²¹ Moore, Persaud and Torchia, *The Developing Human: Clinically Oriented Embryology* (10th ed, 2016) pp. 74-75 and p. 76 (Table 5-1).

²² Moore, Persaud and Torchia, *The Developing Human: Clinically Oriented Embryology* (10th ed, 2016) p. 75.

²³ Ibid., p. 76 (Table 5-1).

²⁴ Ibid., p. 78.

²⁵ Ibid.

Also in the sixth week, the embryo's liver begins producing blood cells.²⁶ The eyes are obvious in the sixth week, largely due to the retinal pigment,²⁷ and the ears are also developing.²⁸ The embryo has brainwaves by six weeks and two days.²⁹ At Days 44-46 the elbow region and nipples are visible and eyelids are forming.³⁰ By the end of the seventh week, ossification of bones of the upper limbs has begun.³¹ By seven weeks, hiccups begin.³² At Days 49-51 the upper limbs are longer and bent at the elbows, and fingers are distinct but webbed, though the fingers become free and longer at Days 52-53.³³ At this point the toes are distinct but webbed, though similarly the toes become free and longer at Days 54-55.³⁴ Purposeful limb movements first occur during the eighth week.³⁵ Moore, Persaud and Torchia observe:

“All major external and internal structures are established during the fourth to eighth weeks. By the end of this embryonic period, the main organ systems have started to develop. As the tissues and organs form, the shape of the embryo changes, and by the end of this period, the embryo has a distinctly human appearance.”

By eight weeks the brain is highly developed.³⁶ Frequently, hands will touch the face and the head will turn. The many muscles of the face are now largely well developed in preparation for the complex facial expressions to follow. Touching the embryo can produce squinting, jaw movement, grasping motions, and toe pointing.³⁷ The embryo now possesses more than 90% of the structures found in the adult.³⁸ By nine weeks thumb-sucking begins.³⁹ The foetus can also grasp an object, move the head forward and back, open and close the jaw, move the tongue, sigh, and stretch.⁴⁰ By nine weeks, the nerve receptors in the face, palms of the hands, and soles of the feet can sense and respond to light touch. Following a light touch on the sole of the foot, the foetus will bend the hip and knee and may curl the toes.⁴¹ The foetus yawns as early as 9½ weeks.⁴² Early fingernail development is occurring at 10 weeks.⁴³ By 11 weeks,

²⁶ Ibid., p. 217.

²⁷ Ibid., p. 78.

²⁸ Ibid., Figure 1-1 on p. 3.

²⁹ The Endowment for Human Development (www.ehd.org/dev_article_unit7.php#fb4).

³⁰ Moore, Persaud and Torchia, *The Developing Human: Clinically Oriented Embryology* (10th ed, 2016), p. 76 (Table 5-1).

³¹ Ibid. p. 84.

³² The Endowment for Human Development (www.ehd.org/dev_article_unit7.php#fb4).

³³ Ibid., p. 76 (Table 5-1).

³⁴ Ibid.

³⁵ Ibid. p. 84.

³⁶ The Endowment for Human Development (www.ehd.org/dev_article_unit8.php#handfacecontact).

³⁷ Ibid.

³⁸ Ibid.

³⁹ The Endowment for Human Development (www.ehd.org/dev_article_unit9.php#sucking).

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² The Endowment for Human Development (www.ehd.org/dev_article_unit10.php#yawning).

⁴³ Moore, Persaud and Torchia, *The Developing Human: Clinically Oriented Embryology* (10th ed, 2016) p. 92 (Table 6-1).

the nose and lips are completely formed. The foetus can now produce complex facial expressions and, according to one group of researchers, is capable of smiling.⁴⁴

The intention here is not, of course, to suggest that unborn children must have reached the stage of having some particular physical characteristics, or be capable of doing any particular thing, in order to be deserving of the law's protection. In our submission their entitlement to that protection arises from their nature as humans. The purpose of the foregoing is simply to illustrate with as much clarity as possible the humanity of the unborn child by looking at the earliest stages of his or her development. We hope that the foregoing helps to illustrate that an unborn child should not be dismissed as a mere clump of cells but recognised as the living human being he or she is. We all went through the above stages of development ourselves when we were in their position. Human development is a continuing process both before and after birth. At all stages of that development we are the same human individuals. Our hands and feet, hearts and heads are the hands, feet, hearts and heads we had as unborn children. They have simply grown and developed both before and after birth.

3. PROTECTING WOMEN'S LIVES

The 8th Amendment of the Constitution only protects unborn children's lives to the extent that that can be done consistently with protecting the mother's life. This is clear from the very words of the Amendment, as it provides for the law to defend and vindicate the right to life of the unborn "as far as practicable" "with due regard to the equal right to life of the mother". In this regard, in a case which did not raise the issue of the mother's right to life, then Chief Justice Murray said:⁴⁵

"Thus, Article 40.3.3° focuses on human life before birth without exception. It did not purport to confer a right but to protect a right acknowledged to exist. It commences with the words "The State acknowledges the right to life..." and sought, in a positive rather than prohibitive form, to protect that life *while at the same time it made clear that the provision should not be interpreted as in any way undermining the right to life of the mother....*" [emphasis added]

Medical treatment or intervention that leads to the death of the unborn child is necessary in some situations in order to save a woman's life, by reason of an illness or a complication, such as ectopic pregnancy or pre-eclampsia. While the premature delivery of a baby to save the mother's life may be referred to as termination of pregnancy, it is not an abortion because the intention is to treat the woman rather than to end the baby's life. Any treatment or

⁴⁴ The Endowment for Human Development (www.ehd.org/dev_article_unit11.php#complexfacialexpressions)

⁴⁵ *MR v. TR* [2010] 2 IR 321 at para. 17 of the Supreme Court decision.

intervention that was necessary in order to save a woman's life was rightly already lawful, and already part of obstetric practice in Ireland,⁴⁶ prior to the enactment of the Protection of Life During Pregnancy Act 2013, even if such treatment or intervention would result in the death of the unborn child.⁴⁷ In these situations, doctors endeavour to save the child after birth if at all possible.⁴⁸

In contrast, abortion, the direct and intentional destruction of an unborn child, is never necessary in order to save a woman's life.⁴⁹ Experts confirmed in January 2013 that they had never withheld treatment from any woman due to the law or any uncertainty about the then-existing law and that they were unaware of any such occurrence elsewhere.⁵⁰ In addition, the Dublin Declaration on Maternal Healthcare, which has over 1,000 signatories, states:

“As experienced practitioners and researchers in obstetrics and gynaecology, we affirm that direct abortion – the purposeful destruction of the unborn child – is not medically necessary to save the life of a woman.

We uphold that there is a fundamental difference between abortion, and necessary medical treatments that are carried out to save the life of the mother, even if such treatment results in the loss of life of her unborn child.

We confirm that the prohibition of abortion does not affect, in any way, the availability of optimal care to pregnant women.”⁵¹

For many years Ireland has been, and remains, one of the safest places in the world to have a baby. Ireland ranks joint sixth in Europe and also among 183 countries around the world in relation to our Maternal Mortality Rate and has consistently been in that position (or occasionally in fifth or seventh place) for many years.⁵² The UN Maternal Mortality Estimates 2015 rank Ireland ahead of countries such as Britain and the USA (which have what are often described as liberal abortion laws) in terms of safety for pregnant women.⁵³

⁴⁶ Oireachtas Committee on Health and Children hearings 8th to 10th January 2013 (webcasts of these hearings can be viewed at <https://www.oireachtas.ie/viewdoc.asp?DocID=-1&CatID=127&StartDate=01%20January%202013&OrderAscending=0&mypage=13>).

⁴⁷ Sections 7 and 8 of that Act deal with interventions to save a woman's life in the event of a risk arising from physical illness (which includes “physical injury”: s. 2(3) of the Act).

⁴⁸ Oireachtas Committee on Health and Children hearings 8th to 10th January 2013.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Available at www.dublindeclaration.com

⁵² *Trends in Maternal Mortality: 1990 to 2015 Estimates by WHO, UNICEF, UNFPA, World Bank Group and the UN Population Division* (<http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/>). A table illustrating the figures in this regard from 1985-2015 is available at <http://cdn.thejournal.ie/media/2016/08/irelandmmr-4.jpg>

⁵³ *Trends in Maternal Mortality: 1990 to 2015 Estimates by WHO, UNICEF, UNFPA, World Bank Group and the UN Population Division* (<http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/>).

Many proponents of legalised abortion attempted to present Ms. Savita Halappanavar's death as having resulted from the prohibition of abortion under the then-existing law. However, official inquiries confirmed that her death resulted from the mismanagement of sepsis.⁵⁴ The Health Information and Quality Authority (HIQA) Inquiry in October 2013 found that her medical team missed 13 opportunities to intervene and save her life.⁵⁵ Staff failed to diagnose the ESBL infection which led to her death and did not understand that her life was in danger.

Dr. Sam Coulter-Smith, Master of the Rotunda Hospital, told an Irish Medical Organisation conference in April 2013, that on four occasions in the previous year he had acted to save the mother's life when severe sepsis arose and that, while the interventions led to the loss of the baby's life, these were not abortions but interventions to save the life of the mother.⁵⁶ While all of this illustrates the absence of any medical need for the Act of 2013, the Act was nevertheless repeatedly presented as a piece of legislation that was necessary in order to save women's lives and it is in any event now in place. Even with the Act passed however, it continues to be argued by some that women's lives are endangered by the law. We hope that the foregoing discussion demonstrates the baselessness of that assertion, as indeed do the terms of sections 7 and 8 of the Act of 2013 despite the lack of any medical necessity to introduce that Act.

Abortion procedures involve the deliberate and intentional destruction of a woman's unborn child, which is not a legitimate medical treatment for any condition. There are no health benefits to having an elective abortion and there is no evidence to suggest that Irish women are experiencing negative health consequences because of the law on abortion. It is clear from the statutory grounds for abortions being carried out on Irish women in Britain that they are not for treatment of a health condition that they are being denied in Ireland. Experience in Britain demonstrates starkly how allowing abortion on non-specific 'health' grounds has led to abortion on demand.⁵⁷

⁵⁴ Patient Safety Investigation Report published by the Health Information and Quality Authority 9th October 2013 (available at <https://www.hiqa.ie/press-release/2013-10-09-patient-safety-investigation-report-published-health-information-and-qualit>; HSE Report (June 2013); Inquest Report on the death of Savita Halappanavar (the Coroner's recommendations endorsed by the Jury, April 2013).

⁵⁵ Ibid., Patient Safety Investigation Report published by the Health Information and Quality Authority (9th October 2013).

⁵⁶ "I carried out four abortions in past year to save lives, says doctor" *Irish Independent* 5th April 2013. The doctor stated however that terminations of pregnancy in order to save women's lives should not be referred to as abortions: "Medical Ethical dilemmas in caring for mother and unborn child", Irish Medical Organisation AGM, 4th April 2013 (available at <http://www.imo.ie/news-media/agm/agm-2013/scientific-sessions/medical-ethical-issues-fr/medical-ethical-issues-at/index.xml>).

⁵⁷ Abortion Statistics England and Wales 2015 (available at <https://www.gov.uk/government/statistics/report-on-abortion-statistics-in-england-and-wales-for-2015>)

So far from abortion saving women's lives, evidence indicates that abortion in fact increases the risk of a woman taking her own life. This latter effect, and other profoundly serious adverse effects women suffer as a result of abortion, are discussed in the following section.

4. HARM INFLICTED ON WOMEN BY ABORTION

Research carried out by Dr. David Fergusson and others in New Zealand found that women who had abortions were 30% more likely to develop mental health problems.⁵⁸ Their research was a particularly robust 30-year longitudinal study, interviewing over 500 women six times and with impeccable controls for factors such as a predisposition to mental illness.

A 13-year study by Gissler and others found that the suicide rate among women who had abortions was six times higher than that of women who had given birth, and double that of women who had miscarriages.⁵⁹ The study looked at data between 1987 and 2000 on all deaths among women of reproductive age in Finland.

A Canadian study found a 61% increased risk for social anxiety disorders and a 59% increased risk for suicidal thoughts.⁶⁰

Women who have had an abortion have higher rates of mental health problems including depression, anxiety, suicidal behaviour, and substance abuse.⁶¹ Research published in 2012 by the Irish Crisis Pregnancy Agency indicated that 44% of women who had abortions experienced either a lot or some regrets. In contrast, only 10% who had given birth had a lot or some regrets about it and the small number (three) who had placed their child for adoption had no regrets.⁶² Although the report notes that there may be different reasons for the regrets, we would submit that the large number experiencing regrets about abortion further highlights the fact that it is in no sense a quick-fix solution for women. Risks and adverse effects of abortion for women are detailed further elsewhere.⁶³

⁵⁸ David M. Fergusson, John L. Horwood and Joseph M. Boden, "Abortion and mental health disorders: evidence from a 30-year longitudinal study" *The British Journal of Psychiatry* (2008), pp. 444-451.

⁵⁹ Mika Gissler, Cynthia Berg, Marie Helene Bouvier-Colle and Pierre Buekens, "Injury deaths, suicides and homicides associated with pregnancy in Finland" *The European Journal of Public Health* (2005) 15 (5): 459-463.

⁶⁰ Mota, NP *et. al.* "Associations between Abortion, Mental Disorders and Suicidal Behavior in a Nationally Representative Sample" *The Canadian Journal of Psychiatry* 55(4), 239-246.

⁶¹ David M. Fergusson, John L. Horwood and Elizabeth M. Ridder, "Abortion in young women and subsequent mental health" *Journal of Child Psychology and Psychiatry* Volume 47 (January 2006).

⁶² Irish Contraception and Crisis Pregnancy Study 2010 (ICCP-2010) A Survey of the General Population (May 2012) pp. 108-109 (available at <http://www.crisispregnancy.ie/publications/irish-contraception-and-crisis-pregnancy-study-2010-iccp-2010-a-survey-of-the-general-population/>).

⁶³ <http://abortionprocedures.com/>

In rare cases abortion kills women. Aisha Chithira, from Ireland, who was 22 weeks pregnant, bled to death after an abortion in a Marie Stopes clinic in London in January 2012.⁶⁴ The Crown Prosecution Service revealed that Ms Chithira suffered internal tears and major blood loss, before collapsing on the floor hyperventilating in the abortion clinic. The clinic then discharged her several hours later and she was put in a taxi, where she lost consciousness and bled to death.

Another Irish woman almost died in the same clinic in 2006 when an abortionist perforated her uterus and left pieces of her baby inside her body.⁶⁵ When she returned to Ireland, the woman was rushed to hospital where she was in a critical condition for two months.

Women experiencing crisis pregnancies need understanding and support at a time of great difficulty for them. In a survey of women who sought help after abortion, 83% said they would have carried the baby to term if they had received support from the baby's father, their family, or other important people in their lives.⁶⁶

In addition to its damaging effects on a great many women, abortion always destroys entirely the life of at least one unborn child. This subject is addressed in the next section.

5. HARM INFLICTED ON UNBORN CHILDREN BY ABORTION

Unfortunately, it is of course impossible to make a fully informed decision in favour of making it lawful to subject unborn children to abortion without knowing what they are subjected to in an abortion. This is difficult subject-matter both for the authors of this submission and for the Assembly members and it is one of the aspects of this issue that makes the task with which the Assembly has been entrusted unenviable. However, the initiation of this process to consider whether the law on abortion should be changed makes the reality faced by unborn children essential subject-matter to consider. The gravity of what abortion does to them is too often swept under the carpet to avoid the recognition of unpalatable truths and to advance the promotion of legalised abortion. Knowledge of the reality of abortion is crucial to a comprehensive understanding of the issue.

Dr. Kathi A. Aultman, a former abortionist who had an abortion herself, changed her views on abortion because of three particular cases with which she was confronted in her practice. In the course of her written testimony to a US Senate Judiciary Committee hearing in March 2016, she said:

⁶⁴ "Marie Stopes doctor and nurses 'bungled woman's abortion then sent her home despite symptoms of internal bleeding that killed her just hours later", *Daily Mail*, 19th June 2015.

⁶⁵ "Doctor struck off as abortion nearly kills Irish woman", *Irish Independent*, 2nd December 2011.

⁶⁶ D. Reardon, *Aborted Women, Silent No More* (Springfield, Illinois, USA: Acorn Books, 2002).

“...I found out later that few doctors are able to do abortions for very long. Physicians are taught to heal, not harm. OB/GYNs especially, often experience a conflict of conscience because they are normally are concerned about the welfare of both their patients but in an abortion they are killing one of them. Although many people view an abortion as just removing a blob of tissue, the abortionist knows exactly what he or she is doing because they must count the body parts after each procedure. Eventually the truth sinks in and if they have a conscience they can no longer do them.

My views also changed as I saw young women in my practice who did amazingly well after deciding to keep their unplanned pregnancies and those who were struggling with the emotional aftermath of abortion. It was not what I expected to see....

.... As a society we have shifted our priorities from basic human rights to women's rights and have taught our young women that nothing should interfere with their right to do whatever they want with their bodies, especially when it comes to pregnancy. We have also done a good job of sanitizing our language to make abortion more palatable. We don't speak about the “baby”, rather we talk about the “fetus”. The abortionist “terminates the pregnancy” rather than “killing the baby”. As medical doctors and as a society we have moved away from the idea that life is precious and closer to the utilitarian attitudes which wreaked so much havoc during the last century....

.... Much of the power and influence behind the drive to prevent any restriction on abortion comes from those who make a profit on it and I am sad to say they have used a distorted view of women's rights as a cover.

I have always thought of myself as a good person but at one point I was horrified by the realization that I had killed more people than most mass murderers....”⁶⁷

Dr. Anthony Levatino, an obstetrician-gynaecologist and former abortionist who later became a pro-life advocate and who has testified before the US Congress about abortion methods, observed while recounting his time performing abortions:

“...now I am taking somebody's child and I am tearing him right out of their womb. I am killing somebody's child...I began to feel like a paid assassin. That's exactly what I was.”⁶⁸

⁶⁷ Written Testimony of Kathi A. Aultman, MD, US Senate Judiciary Committee Hearing March 15th 2016 (available at <https://www.judiciary.senate.gov/download/03-15-16-aultman-testimony>)

In a series of videos Dr. Levatino explains abortion procedures in clear terms. Should the Assembly members wish to view them,⁶⁹ they are short and provide information additional to what is set out in the typed statements accompanying them (which are set out below). The videos use short animations to depict the procedures rather than actual ultrasound footage, and are consequently somewhat less disturbing than some other abortion procedure videos. The following descriptions of the procedures, and the gestational ages at which they are used, accompany the videos (please note that, although in this submission gestational age is measured from fertilisation, the source from which these descriptions are taken from measures time from two weeks before fertilisation):

Abortion Pills - during the first trimester of pregnancy. The drugs are approved by the relevant American authority for use up to 10 weeks LMP [i.e. up to eight weeks after fertilisation]:

“The woman visits an abortion clinic or doctor’s office and ingests pills containing Mifepristone (also known as RU-486) at the clinic. This drug blocks the action of the hormone called “progesterone,” which is naturally produced by the mother’s body to enable the mother to sustain and nourish the pregnancy. When RU-486 blocks progesterone, the lining of the mother’s uterus breaks down, cutting off blood and nourishment to the baby, who then dies inside the mother’s womb. Twenty-four to forty-eight hours later, the woman ingests another drug called Misoprostol (also called Cytotec), administered orally or vaginally, which causes contractions and bleeding to expel the baby from the womb.”

Aspiration (Suction) D&C - during the first trimester, typically during five and 13 weeks LMP [i.e. between three and 11 weeks after fertilisation]:

“.... An abortionist uses metal rods or medication to dilate the woman’s cervix and gain access to the uterus, where the baby resides. The abortionist then inserts a suction catheter to vacuum the child from the womb. The suction machine has a force approximately 10 to 20 times the force of a household vacuum cleaner. The procedure is completed as the abortionist uses a sharp metal device called a curette to empty the remains of the child from the mother’s uterus....”

D&E (Dilation and Evacuation) - between 13 and 24 weeks LMP [i.e. between 11 and 22 weeks after fertilisation]:

⁶⁸ Dr. Levatino’s testimonial at a ‘Meet the Abortion Providers’ conference (available at <http://clinicquotes.com/former-abortionist-dr-anthony-levantino/>).

⁶⁹ These videos can be viewed at <http://abortionprocedures.com/>

“... After the amniotic fluid is removed, the abortionist uses a sopher clamp — a grasping instrument with rows of sharp “teeth” — to grasp and pull the baby’s arms and legs, tearing the limbs from the child’s body. The abortionist continues to grasp intestines, spine, heart, lungs, and any other limbs or body parts. The most difficult part of the procedure is usually finding, grasping and crushing the baby’s head. After removing pieces of the child’s skull, the abortionist uses a curette to scrape the uterus and remove the placenta and any remaining parts of the baby.

The abortionist then collects all of the baby’s parts and reassembles them to make sure there are two arms, two legs, and that all of the pieces have been removed.”

Third Trimester Induction - 25 weeks LMP [i.e. 23 weeks after fertilisation] to full term:

“Day 1: To help ensure the baby will be delivered dead and not alive, the abortionist uses a large needle to inject digoxin or potassium chloride through the woman’s abdomen or vagina, targeting the baby’s heart, torso, or head. When the digoxin takes effect, the lethal dose causes a fatal cardiac arrest, and the baby’s life will end. (Even if the needle misses the baby, digoxin can still kill the baby when released into the amniotic sack, but will usually take longer to kill the child.)

During the same visit, the abortionist inserts multiple laminaria sticks, or sterilized seaweed, to open up the woman’s cervix.

Day 2: The abortionist replaces the laminaria and may perform a second ultrasound to ensure that the baby is dead. If the child is still alive, the abortionist administers a second lethal dose of digoxin or potassium chloride. During this visit, the abortionist may administer labor-inducing drugs.

The woman goes back to where she is staying while her cervix continues to dilate. The woman will usually wait a period of two to four days for her cervix to dilate enough for her to deliver the dead baby.

Day 3 or 4: The woman returns to the clinic to deliver her dead baby. If she goes into labor before she can make it to the abortion clinic in time, she will deliver her baby at home or in a hotel room. During this time, a woman may be advised to sit on a bathroom toilet until the abortionist arrives. If she can make it to the clinic, she will do so during her most heavy and severe contractions and deliver the dead baby.

If the child does not come out whole, the procedure becomes a D&E, or a dilation and evacuation. The abortionist uses clamps and forceps to dismember and remove the baby piece by piece.”

In the accompanying video for this type of abortion, Dr. Levatino notes:

“The abortionist inserts the needle with the digoxin through the woman’s abdomen or through her vagina and into the baby.... The baby will feel it. Babies at this stage feel pain....”

At 20 weeks LMP (18 weeks after fertilisation), the child’s nervous system is developed enough to feel pain. Research by the University of Toronto shows that babies at this stage can feel pain in the womb — even with greater intensity than adults.⁷⁰ There have been suggestions that it may be possible for them to feel pain even earlier.

We hope that the foregoing demonstrates that abortion is the deliberate killing of a human being and illuminates the brutality of the procedures used to bring about that end. In the next section we seek to address the main arguments in support of the pro-choice position.

6. SOME RESPONSES TO PRO-CHOICE ARGUMENTS

Pro-choice slogans such as ‘it’s a woman’s body’ and ‘my body my choice’ are very familiar and at a superficial level they appear persuasive if we are unaware of the reality of abortion. The more informed we are about the issue, the easier it is to see through them. Firstly, as we have seen above,⁷¹ the unborn child, though within and connected to a woman’s body, is a distinct human individual. Rather than the woman’s body, it is the unborn child’s body, and with it the unborn child’s life, that are obliterated by abortion. Despite this, the suggestion is that what happens to that unborn child’s body and life is entirely a matter for the woman’s choice. Perhaps the main reason these slogans can seem persuasive in the absence of sufficient factual information to refute them is because from their terms they appear simply to express the idea that one individual (or group) is not entitled to determine what happens with the body of another. Yet if pro-choice advocates believe that one individual is not entitled to determine what happens with the body of another, how can this be reconciled with the proposition that a woman is entitled to determine what happens to the body (and not alone the body but the very life) of an unborn child? The belief that one individual is not entitled to

⁷⁰ <http://abortionprocedures.com/#1466802057745-21666a85-9db0> – Select ‘How developed is the child at this point in pregnancy?’

⁷¹ Sections 2 and 5 of this submission.

determine what happens with the body of another is much more consistent with pro-life than with pro-choice philosophy.

The only real way to account for these slogans is to realise that what underlies them is either a steadfast refusal to recognise the incontestable reality that there are two human individuals involved in a pregnancy (a woman and her unborn baby) or, more probably, a refusal to accept the logical consequences of that reality by giving some meaningful acknowledgment to the unborn baby. Such refusal is clear enough merely from the words used in these slogans and the arguments constructed around them, which either avoid mention of the unborn child or treat him or her as if his or her rights simply have no part to play in the matter. This is so even though (quite obviously when the issue is given any more than a cursory consideration) the human being so ignored or denigrated is the very human being who is most affected by whether or not an abortion occurs, because he or she is the one whose life is ended if it does. To say that a woman has a right to choose abortion is simply a far more palatable and acceptable way of saying that an unwanted unborn child has a legally enforceable obligation to die. There is nothing worse, nothing more absolute and irreparable that the law could impose on any human being. There is nothing more that the law could take from any human being, because once a human being's life has been taken there is nothing left and it will never be possible for him or her to exercise any right at any time in the future.

Similarly, the idea that being able to obtain an abortion is about 'bodily autonomy' is simply incorrect, since autonomy and bodily autonomy are about making decisions for oneself and one's own body, rather than for another human being and his/her body. Pregnancy of course affects a woman's body, but since abortion impacts much more greatly on the other individual involved in the pregnancy, choosing abortion is not an exercise of bodily autonomy. It is also important to note that abortion often results more from someone else's choice than from the choice of the woman, with the woman being pressured into implementing that other person's choice. We are not suggesting that that is what abortion advocates want, but it is the reality of legalised abortion. Research has shown that women feel pressured into having abortions. One US study found that 64% of American women who had abortions felt pressured by others.⁷² Coercion can include loss of home, job or family, and even violent assault.

We may also wonder how abortion campaigners can express outrage at the idea of a woman having to continue with her pregnancy, while at the same time they consider it unobjectionable for an unborn child to have to undergo the permanent and irreparable loss of life itself. Such a discriminatory and skewed approximation of compassion, which displays no compassion for the smaller and weaker human being whose very life is at stake, is no kind

⁷² VM Rue et. al., "Induced abortion and traumatic stress: A preliminary comparison of American and Russian women" *Medical Science Monitor* (2004) 10(10): 5-16

of compassion at all. It is important to show real compassion for both the mother and the baby. We respectfully submit that this can only be done by protecting both lives, while recognising, as the Constitution already does, that there are cases where the mother needs life-saving treatment that will result in the unavoidable loss of her baby's life.

It is commonly suggested that pro-life people are 'imposing their beliefs on others'. We hope it is clear from the above⁷³ that abortion is the intentional killing of a living human being by a doctor, and that this characterisation of abortion is simply a recognition of the facts rather than the expression of a belief. That being so, the contention that abortion should be prohibited by law amounts to no more than the proposition that it should not be lawful to deliberately kill a human being. The aim in this context is to ensure that unborn human beings are protected by law against threats to their lives, a protection that we as adults have the luxury of taking for granted. The idea that trying to ensure the maintenance of legal protection for those who are threatened with the denial of that protection amounts to 'imposing beliefs' is clearly spurious. It overlooks entirely the solid foundation in fact, logic, justice and compassion of laws protecting the smallest and weakest human beings against deliberate and total destruction. It is furthermore not a question of imposing religious beliefs. The idea that it is necessary to be religious to be opposed to the legalisation of the kind of profoundly shocking brutality referred to above is inevitably offensive to atheists who are pro-life.⁷⁴ In addition, of necessity all laws, from the trivial to the very important, necessarily reflect a particular belief because they reflect a belief that the idea or statement expressed in the particular law should be part of the law. Taking the imposition of beliefs argument to its logical conclusion would mean that every law not universally agreed on would be an impermissible encroachment. The point could only be valid in relation to abortion if the procedure were victimless, which it plainly is not.

Moreover, there is an implicit assertion that if the law took a position in favour of abortion it would not be imposing one group's beliefs upon another. That assertion is incorrect, because it fails to take into account the extraordinarily far-reaching imposition on unborn children that is at the heart of pro-choice ideology. Here again we see a failure to acknowledge unborn children in any meaningful way. If the law were to take a pro-choice position, it would be imposing on unborn children the pro-choice belief that even the very life of an unborn child does not deserve the protection of the law. The consequences for unborn children of the imposition of that belief upon them have been set out above. It is difficult to imagine how those consequences could be more severe or could take more away from an unborn child. Pro-choice ideology, so far from being tolerant or open-minded as is sometimes supposed,

⁷³ Sections 2 and 5 of this submission.

⁷⁴ Pro-life organisations in general are not concerned with whether or not their members are of any religious faith or none, so pro-life atheists can join any pro-life organisation, but it is nevertheless relevant to refer here to a number of groups that illustrate the point that one need not be religious to be pro-life. These groups include Secular Pro-Life (<http://www.secularprolife.org/>) and Pro-Life Humanists (<http://www.prolifehumanists.org/>).

displays extraordinary intolerance, because what underlies it is a view that an unborn child is so worthless that he or she does not deserve legal protection even for his or her life and that it should be lawful to deliberately, violently and completely destroy him or her. Is such devaluation of an unborn child not the coldest, most severe judgment that one human being can pass upon another? This is after all the same way the law treats an item of personal property, where the item's owner has consented to its destruction.⁷⁵ The proposition therefore is that the law should treat an unborn child, who as set out above is a human individual, in the same way as it treats a €20 note or a table, not as a member of our species with inherent value and rights but as a mere thing to be owned outright and absolutely. When we do not exclude the unborn child from the picture, it becomes clear that the legalisation of abortion would not be a move toward greater equality but rather the antithesis of equality, since it denies the law's protection entirely to a particular category of human beings. Discrimination can hardly reach a higher degree of intensity.

The 8th Amendment of the Constitution takes a far broader view of this issue than pro-choice philosophy does. It is a view broad enough to see that there are two people involved and it achieves a balance between their rights, protecting the unborn child's life to the extent that this can be done consistently with the protection of the mother's life. In contrast, the abortion philosophy is directed not to achieving the balancing of the rights of two human beings where a conflict of rights is thought to exist, but rather to achieving the absolute subjugation of the body, life and future of one human being to the wishes of another. There are undoubtedly cases where a woman's wish to end her pregnancy will be perfectly understandable, but however understandable that wish may be we submit with the greatest respect that it can never mean that the law is justified in turning its back so coldly as the abortion lobby would wish it to do on the most helpless and defenceless among us in a misguided attempt to help their mothers. This is especially so when we know the lasting suffering inflicted on so many post-abortive women. Vulnerable women facing difficult circumstances in pregnancy are trying to find the best way forward, but many other societies' answer is to offer them abortion. To present this to women as a solution in the knowledge of (or with blindness to) the horrific nature and consequences of abortion for women and unborn children is an easy and expedient course for any State, but it is not a responsible course. It is no answer to say that it is not irresponsible because it gives a woman the choice. This places an awesome responsibility - a power over life and death itself which we as human beings are not, and should not be, accustomed to having - on her shoulders at a time of formidable difficulty for her. Even apart from that, such an answer again overlooks the inherent value of the unborn child as a living member of the human race.

⁷⁵ Section 2(1) of the Criminal Damage Act 1991, considered in conjunction with s. 6 and the definition of 'property' in s. 1(1) of that Act.

With reference to the number of women who obtain an abortion abroad, it is often argued that by prohibiting abortion in Ireland we are just 'exporting our problems'. Due to the legal position in our neighbouring countries, and particularly in Britain, it is a tragic reality that by prohibiting abortion here our laws cannot save every unborn child's life and cannot spare every woman the pain of abortion regret. Every abortion that takes place is a tragedy. Despite this, our pro-life laws can and do achieve enormous successes in the prevention of abortion. Our abortion rate is approximately 1 in 19 pregnancies. In Sweden it is 1 in 4; in England and Wales, France, Spain and the United States it is approximately 1 in 5; and in Italy and Portugal, 1 in 6.⁷⁶ The magnitude of the difference in abortion rates can only be accounted for by reference to the effect of our pro-life laws and their effect not only on access to abortion but on our society. Experience in Britain shows how the introduction of supposedly limited abortion can result in vast increases in abortion rates in a period of as little as five years.⁷⁷ In addition, the 'exporting our problems' argument does not address the merits of the debate at all, because it does not and cannot explain why abortion should be legal – it merely points to the fact that abortion is available in neighbouring countries, particularly Britain. If abortion is a violation of the basic rights of an unborn child, as we contend it is, then its availability elsewhere cannot justify its legalisation, and could not possibly justify it even if the abortion statistics did not paint an encouraging picture. This is so both because even one life saved would be enough to make the 8th Amendment worthwhile and also because it is wrong in principle in our submission for adults to provide by law for the violation of a baby's rights.

In the following sections we consider the particularly difficult situations that arise in relation to pregnancy resulting from rape and in relation to unborn children with life-limiting conditions.

7. PREGNANCY RESULTING FROM RAPE

Rape is one of the most horrific crimes, and rape victims deserve all the support that society can provide. Where a rape victim becomes pregnant, we must act with the greatest care and compassion. This is an extremely difficult situation and it is necessary to consider whether abortion is the answer, or whether it is yet another traumatic violation of a woman, which also ignores the reality that the baby is also an innocent party.

While it is understandable that many people would think that women who become pregnant as a result of rape need abortion, according to figures from the Rape Crisis Centre, some 74%

⁷⁶ Abortion Statistics England and Wales 2015, Italian Ministry of Health 2015, Portuguese Ministry of Health, 2016 and WHO European Health for All Database

⁷⁷ Abortion Statistics England and Wales 2015 at Table 1 (p. 23) (available at <https://www.gov.uk/government/statistics/report-on-abortion-statistics-in-england-and-wales-for-2015>).

of women they assisted who became pregnant through rape did not have an abortion⁷⁸ 40% raised the child, 11% placed the child for adoption or fostering and miscarriage or stillbirth occurred in the remaining 23% of cases.

Many rape survivors say that the baby has a right to life, despite the crimes of the rapist. His or her life should not be ended because of the actions of a man who should be imprisoned. In the first study of rape victims who became pregnant, Dr. Sandra Mahkorn found that most sexual assault victims - between 75 and 85% - refused abortion.⁷⁹ Most women in Dr. Mahkorn's study felt that abortion would be another violation, and that issues relating to the rape experience, not the pregnancy, were of primary concern in counselling and recovery. Women in Dr Mahkorn's study who became pregnant through rape, and who did not abort, said that hostile and negative feelings towards the baby changed during pregnancy. They also felt that the baby was an innocent party to the rapist's crime just as they were.

Women who have an abortion after becoming pregnant through rape can suffer serious detrimental effects. The woman known as Miss C was brutally raped when she was only 13 years old. She was taken to Britain for an abortion. In 2013 she said:

“My name – the C-case girl – is brought up on radio and TV all the time these days as if I'm an ad for abortion....for me, it has been harder to deal with than the rape.”⁸⁰

Another woman, who was raped as a child of 13, was taken to Britain from Northern Ireland for an abortion as a result of pressure from her parents, said:

“In those 36 years before I got healing the rape never figured and it wasn't the boat journey to England either which traumatised me - it was the taking away of my baby. I was haunted every year the date of the abortion came round, thinking what age he would have been....”

She said:

“I would advise women to think twice. Don't go into having an abortion because it's a quick fix - it's not. That abortion experience will stay with you for the rest of your life. It will haunt you.

⁷⁸ Rape Crisis Network Ireland, *2014 National Rape Crisis Statistics* p. 26.

⁷⁹ Sandra Mahkorn, 'Pregnancy and Sexual Assault', Mall & Watts (eds.), *The Psychological Aspects of Abortion* (Washington DC: University Publications of America, 1979), 55-69.

⁸⁰ “C-Case mum: I grieve for my lost baby every day” *Irish Independent* 5th May 2013 (<http://www.independent.ie/lifestyle/health/ccase-mum-i-grieve-for-my-lost-baby-every-day-29241584.html>).

If a woman finds herself pregnant as a result of rape, she really needs to have some care. She needs compassion, she needs counselling, and she needs a great deal of support. She doesn't need another act of violence in abortion.”⁸¹

Abortion is often seen as a quick-fix solution by society, but it does not address the trauma suffered by survivors of rape, nor does it offer the long term support and compassionate care rape survivors need. A survey of hundreds of rape survivors discovered that women who had an abortion after becoming pregnant through rape reported more pain, guilt, and anger than women who did not abort.⁸²

The birth of the baby can be beneficial to the mother. One rape victim who booked an abortion in a panic, but then changed her mind when support from her family and friends helped her to realise that she could get through her pregnancy, said:

“I no longer care who the biological father is, he is nothing. But look at my son. Just because he was not conceived in an act of love — or a wanted act at all — he is still a precious human being who is deserving of life and everything in it. In fact, I can say that ultimately one thing has saved me from severe, severe depression, and that is my baby. Someone who has been conceived in rape is not less of a person.”⁸³

Rebecca Kiessling, who was conceived through rape, also offers an interesting perspective. She states:

“Have you ever considered how really insulting it is to say to someone, “I think your mother should have been able to abort you.”? It’s like saying, “If I had my way, you’d be dead right now.” And that is the reality with which I live every time someone says they are pro-choice or pro-life “except in cases of rape” because I absolutely would have been aborted if it had been legal in Michigan when I was an unborn child, and I can tell you that it hurts. But I know that most people don’t put a face to this issue — for them abortion is just a concept — with a quick cliché, they sweep it under the rug and forget about it. I do hope that, as a child conceived in rape, I can help to put a face, a voice, and a story to this issue.”⁸⁴

Of course, both in the case of pregnancy resulting from rape and indeed in any situation where a mother does not feel that she is in a position to raise her baby, she will sometimes

⁸¹ “*Belfast woman: 'My abortion has haunted me all my life - nothing will ever replace losing my baby'*”: *Belfast Telegraph*, 13th February 2016. (<http://www.belfasttelegraph.co.uk/news/northern-ireland/belfast-woman-my-abortion-has-haunted-me-all-my-life-nothing-will-ever-replace-losing-my-baby-34449194.html>).

⁸² Anne Morse, ‘Telling the Rape Victim’s Story’ *National Review Online*, 17th May 2007
<http://www.nationalreview.com/article/220980/telling-rape-victims-story-anne-morse>

⁸³ <http://www.rebeccakiessling.com>

⁸⁴ <http://www.rebeccakiessling.com>

decide that adoption is the best way forward. To give up a child for adoption is surely never easy, but unlike abortion it gives a child every chance in life and unlike abortion it provides a woman with the invaluable benefit of knowing that she has given her child that chance. In addition, adoption today often involves continuing contact, if the mother wishes,⁸⁵ and arrangements can be made at her request to place the child in short-term foster care if she is unsure whether or not adoption is her preferred course, during which time she can consider the question further.⁸⁶

In addition, it is worth giving consideration to the sad fact that abortion has always been used to cover up rape and sexual assault.

As was widely reported, Jimmy Saville sent at least 2 of his young rape victims for abortions to cover up his crimes.

In the UK, a scout leader was convicted of repeatedly raping a young girl between the ages of 13 and 14. He had arranged for her to have an abortion when she became pregnant at 13.

In 2009, an Australian Marie Stopes Clinic provider was found guilty of unprofessional conduct for failing to obtain consent before performing a late-term abortion on an intellectually disabled woman who was raped by her father. This same clinic was the site of a botched abortion death in 2011.

There are many other such stories reported in every country where abortion is legal.

8. UNBORN CHILDREN WITH LIFE-LIMITING CONDITIONS

For parents to be told that their unborn child has a life-limiting condition is a devastating blow. It has often been accompanied by terminology such as 'fatal foetal abnormality' or 'incompatible with life', which is medically inaccurate and which has caused further hurt to parents in these situations as it devalues their unborn children. These babies are alive and kicking when they are diagnosed and there is no condition where a doctor can say with certainty that a baby will not live beyond birth. Even with the most severe disorders, such as anencephaly, studies show that most babies do, in fact, live after birth and that parents will have time to make memories with their children. Studies show that 72% of babies with anencephaly do live for a short time after birth⁸⁷ while many babies with Trisomy 13 or 18 have lived for weeks, one or more months or in rare cases years after birth.⁸⁸ Parents should not be deprived of the love and joy that comes from this precious time. We would refer to the

⁸⁵ Adoption Authority of Ireland (<https://www.aai.gov.ie/social-work/pregnant-and-thinking-about-adoption.html#what-kind-of-contact-will-i-have-with-my-child>).

⁸⁶ Adoption Authority of Ireland (<https://www.aai.gov.ie/social-work/pregnant-and-thinking-about-adoption.html#short-term-foster-care>).

⁸⁷ Jaquier M, Klein A, Boltshauser E. 'Spontaneous pregnancy outcome after prenatal diagnosis of anencephaly.' *British Journal of Obstetrics and Gynaecology* 2006; 113:951–953.

⁸⁸ Mitchel L. Zoler, 'Trisomy 18 survival can exceed 1 year', *OB/GYN News*, March 1 2003.

beautiful, poignant and eloquent testimonials of parents in Ireland who have been confronted with these situations.⁸⁹

It appears that the majority of parents in Ireland do not opt for abortion in these cases if they are given the support they need.⁹⁰ Parents need counselling and perinatal hospice care to enable them to make the most of the limited time they have with their children. Perinatal hospice care is not expensive to provide. It involves ensuring that parents have the same medical team throughout the pregnancy, and that special bereavement counsellors and midwives and photographers help the parents and their baby through the pregnancy and birth. Research shows that, when perinatal hospice care services were explained and offered, up to 85% of parents availed of those services even in jurisdictions where abortion was available.⁹¹

A recent study from Duke University has found that mothers who undergo an abortion after a diagnosis of anencephaly are significantly more likely to suffer depression and despair than those who continue with their pregnancy.⁹² Recent research has found that almost 90% of parents who continued with their pregnancy following a diagnosis of Trisomy 13 or 18 said that their overall experience was positive, while 98% of parents described surviving children as happy and as having an enriching influence on their lives and on their families.⁹³

In addition, babies with life-limiting conditions do not suffer in the womb, or after they are born. Parents are sometimes horribly misled in this regard. None of these conditions causes the baby in the womb to suffer pain. Any discomfort after birth will be managed by good palliative care. In contrast, if an abortion is performed the baby is subjected to brutal treatment, as outlined above. Abortions in these situations are usually late term abortions, meaning the baby is either dismembered or given a lethal injection into the heart. In the case of the latter method the mother must then give birth to a dead baby.

Although some doctors provide wonderful support to parents in these situations, there are other cases where parents who have been given a life-limiting diagnosis for their child are then pushed toward abortion by their doctor. It would surely be much more difficult to resist such pressure if abortion in such cases were available in Ireland. It is also important to remember that the problem in these cases is that the child has a very serious illness. Accordingly, any real solution to this problem would have to entail a cure for the illness. The

⁸⁹ www.everylifecounts.ie and <http://onedaymore.ie>

⁹⁰ Houlihan OA, O'Donoghue K. The natural history of pregnancies with a diagnosis of trisomy 18 or trisomy 13; a retrospective case series. *BMC Pregnancy Childbirth*. 2013;13:209. doi: 10.1186/1471-2393-13-209

⁹¹ Calhoun BC, Napolitano P, Terry M, Bussey C and Hoeldtke NJ, "Perinatal hospice. Comprehensive care for the family of the fetus with a lethal condition" *J Reprod. Med.* (2003) 48:343–348.

⁹² Cope, H., Garrett, M. E., Gregory, S., and Ashley-Koch, A. "Pregnancy continuation and organizational religious activity following prenatal diagnosis of a lethal fetal defect are associated with improved psychological outcome" *Prenatal Diagnosis* (2015) 35: 761–768.

⁹³ Janvier, A., Farlow, B., and Wilfond, B.S., "The experience of families with children with trisomy 13 and 18 in social networks" *Pediatrics* (2012) 130: 293–298

absence of such a cure means that there is no real solution in these situations. There are only ways to limit as much as possible the hardship faced by those involved. The suggestion of abortion may result from an understandable frustration at the fact that there is no real solution in these situations. Ultimately however, for the law to treat abortion as the solution means treating the very existence of the child as the problem. No child deserves to be so treated by the law because of his or her illness. It is the illness, and not the existence of the child, that should be viewed as the problem. Abortion cannot undo the diagnosis or the pain the parents feel as a consequence of receiving such distressing news about their baby's condition.

Legalising abortion on disability grounds has led to appalling outcomes in other countries. In Britain some 90% of babies diagnosed with Down Syndrome are aborted according to the findings of the 2013 annual report of the National Down Syndrome Cytogenetic Register for England and Wales. In Iceland, that percentage has now reached a heart-breaking 100%. Abortion ushers in the most lethal form of discrimination of all – complete elimination of children with disability.

9. THE LEGAL EFFECT OF REPEAL OF THE 8TH AMENDMENT OF THE CONSTITUTION

Repealing the 8th Amendment would not simply allow for abortion in limited cases. Law lecturer Gerry Whyte has set out and explained his view that the simple deletion of the 8th Amendment of the Constitution would result in abortion on demand, with the Oireachtas not having a free hand to impose limits by statute.⁹⁴ It is entirely possible that a simple repeal of the 8th Amendment of the Constitution would lead to abortion on demand as Prof. Whyte suggests. This is so regardless of the intentions of individual voters. Accordingly, abortion on demand up to birth could be the result. As far as we are aware, no other country in Europe has such a legal regime in relation to abortion. Even in Britain, which has one of the latest time limits in Europe for abortion in circumstances other than special cases, does not allow abortion up to birth (other than in special cases). Repeal may well have the effect, as a matter of constitutional law, of making this country's laws the most adverse in Europe to unborn children. This notwithstanding that scientific advances in our understanding of the humanity of the unborn have made the case for legal protection of the unborn even stronger than it was in the past.

Given the likely prospect of abortion on demand following repeal, it is important to remember that arguments in favour of permitting abortion in exceptional cases therefore do

⁹⁴ Gerry Whyte, "Abortion on demand the legal outcome of repeal of Eighth Amendment" *The Irish Times* 28th September 2016 (available at <http://www.irishtimes.com/opinion/abortion-on-demand-the-legal-outcome-of-repeal-of-eighth-amendment-1.2807399>).

not justify, and are not rationally connected to, proposals to *repeal* the 8th Amendment. If the Assembly is of the view that abortion should be permitted in exceptional cases then repeal is not the appropriate course as a matter of law.

In addition, contrary to the impression sometimes created, Ireland has not undertaken any international legal obligation to introduce abortion, either generally or in particular circumstances. It is important to bear in mind that the views of the UN Human Rights Committee are not legally binding.⁹⁵

Opinion polls consistently indicate that the majority believe that unborn children's lives should be protected against abortion in either some or all circumstances. They also indicate that the majority support permitting abortion in some cases, but unfortunately most people have not had an opportunity to hear from both sides equally on this issue, so many are unaware of important points in support of the 8th Amendment. In addition, opinion polls on this issue vary. In January 2013 a Millward Brown opinion poll commissioned by the Pro-Life Campaign contained the following question and findings:

Are you in favour of, or opposed to constitutional protection for the unborn that prohibits abortion but allows the continuation of the existing practice of intervention to save a mother's life in accordance with Irish medical ethics?

Result: 63% answered YES, 19% NO, 18% No Opinion. Of those who expressed an opinion: 77% answered YES.⁹⁶

Even with opinion polls indicating support for abortion in some cases, again they do not indicate support for abortion on demand, the expected legal effect of repeal of the 8th Amendment. Finally, we invite the Assembly to consider whether the responses in polls showing varying degrees of support for abortion would be the same if more people were aware of the degree of violence involved in abortion methods.

10. CONCLUSION

We have endeavoured to demonstrate to the Assembly the virtues, achievements and importance of the 8th Amendment of the Constitution, not only in preventing horrifying practices against the unborn and emotional trauma inflicted on women by abortion, but also in saving the lives of real, unique and irreplaceable members of the human race. Few

⁹⁵ *Kavanagh v. Governor of Mountjoy Prison* [2002] 3 IR 97 (Supreme Court); Shaw, *International Law* (7th ed, 2014) states at p. 231.

⁹⁶ Available at <http://prolifecampaign.ie/main/sizeable-majority-support-legal-protection-of-unborn-according-to-new-research/>

constitutional or statutory provisions save any lives, let alone the vast number of lives saved by the 8th Amendment of the Constitution. It recognises that there are two human beings involved in a pregnancy and it achieves a balance between their rights, protecting the unborn child's life to the extent that this can be done consistently with the protection of the mother's life. The 8th Amendment was enacted by the Irish People, by adults who wished to guarantee the protection of the law to the smallest, weakest and most defenceless children. It would have been far easier in many ways to withdraw protection from them than to confirm it by setting it out expressly in the Constitution and thereby rejecting the cold expediency of abortion, but they ensured that all human lives would be protected by the law.

For the foregoing reasons, we respectfully request the Assembly to express support for the 8th Amendment of the Constitution in its report and recommendation. We also ask the Assembly to recommend universal provision of perinatal hospice care for families facing a life-limiting diagnosis in respect of their unborn child, as we understand that provision of such care is somewhat inconsistent at present. Finally, we ask the Assembly to recommend that the State provide greater practical assistance for women facing pregnancy in difficult circumstances, including greater financial support particularly in the child's early years. Such supports can help women and their babies, and in so doing they also accord with the spirit of the 8th Amendment itself.

We thank all members of the Assembly for your time.

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