



INCLUSION IRELAND

National Association for People with an Intellectual Disability

Inclusion Ireland joins 'Together for Yes'

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Inclusion Ireland Joins 'Together for Yes'



Ireland has a document called the Constitution which guides the laws that are put in place in the country.

The people can vote to put new parts into the Constitution and they can vote to take a part out – this is called repealing.



Ireland is having a referendum on repealing a part of the Constitution known as 'the 8th amendment'.

The 8th amendment made abortion illegal in Ireland, except in some very limited cases.



This referendum is on Friday the 25th of May 2018.



Inclusion Ireland thinks that there should be a vote for '**Yes**' in the referendum.



This means that we want the 8th Amendment to be removed from our Constitution.

Inclusion Ireland thinks that it is an abuse of rights for people not to have access to abortion in Ireland.

Inclusion Ireland thinks that people have the right to choose what happens to their body.

Inclusion Ireland thinks that people have the right to have children or to choose not to have children.

Inclusion Ireland thinks that persons with disabilities are impacted worse because of the need to travel for abortion.





Inclusion Ireland has some key messages:

1. Persons with disabilities have the same human rights to sexual and reproductive rights as everyone else.

2. People should know more about these rights and this will need better;

- Education
- Information
- Advocacy support

3. Persons with disabilities experience inequality in many different ways.

This includes;

- Barriers to accessing good healthcare
- A risk of poverty

The current ban means that the inequalities can be worse.

4. The voice of persons with disabilities has been missing from the public conversation on reproductive rights.

5. Information about this referendum can be hard to get and hard to understand.

Information should be available in Plain English and Easy to Read formats so people can be fully informed and can take part in the debate.



Introduction

'Together for Yes' is the national civil society campaign to remove the Eighth Amendment from the Constitution, to protect women's safety, health and wellbeing. At the time of writing, civil society groups representing women, medical professionals, LGBTQI+, lawyers, students and the Travelling community have joined the platform.

The current Constitutional amendment (the Eighth amendment) represents an abuse of the human rights of all individuals who can become pregnant. Individuals with disabilities are disproportionately affected by the amendment.

The UN Convention on the Rights of Persons with Disabilities asserts a right to decide freely on the number and spacing of children¹. Access to abortion services is a key enabler of this right.

In our January 2017 submission to the Department of Justice² we cited the need for a human rights compliant approach to the delivery of abortion services in Ireland and argued that women with disabilities "should have access to the full range of sexual and reproductive rights, including the right to have children as well as to choose not to".

In this context, and in light of Inclusion Ireland's history of campaigning on issues relating to autonomy, bodily integrity and equality, Inclusion Ireland is joining the umbrella organisation 'Together for Yes'.

Human rights and equality

The United Nations has called for the 8th amendment to be repealed and described it as cruel, inhumane and degrading. The UN has also said that the requirement to travel leads to "severe mental pain and suffering" for individuals without means to travel outside the State to obtain an abortion, who may be compelled to carry their pregnancies to full term.

The UN Human Rights Committee³ recently affirmed that the State "must provide safe access to abortion to protect the life and health of pregnant women".

The United Nations Convention on the Rights of Persons with Disabilities asserts the right of individuals with disabilities to decide on the number and spacing of their children, to have access to reproductive and family planning

¹ Article 23

² Submission to the Department of Justice and Equality On a new National Women's Strategy 2017-2020

³ Draft general comment No. 36 on article 6 of the International Covenant on Civil and Political Right, on the right to life

information, education and healthcare⁴, as well as the means to exercise these rights.

The Irish Human Rights & Equality Commission (IHREC) has stated that the Eighth Amendment has a “disproportionate negative impact on certain groups of women” and “that the current legal position in relation to abortion puts in place barriers which impede a woman’s right to bodily autonomy, with certain groups more adversely affected.”⁵

Persons with a disability who can get pregnant are one of these groups. Persons with a disability experience inequalities which further impede their sexual health and reproductive rights. These include;

- Persons with disability do not get sufficient access to sexual education. Improved sex education was identified by the Joint Oireachtas Committee on the Eighth Amendment of the Constitution as an essential component of reproductive rights.
- Persons with a disability face health inequalities in many aspects of their life, including accessing maternity services and access to contraception.
- Persons with disabilities do not have their rights to medical consent and bodily integrity respected in many cases, particularly in relation to medical treatment.
- Persons with disabilities have not enjoyed clear rights in relation to sexual relationships and as such their relationships may be secret or taboo.⁶
- The requirement to travel to access an abortion may be an insurmountable barrier for women with disabilities for many reasons including
 - A lack of access to information
 - A need to be treated by a medical practitioner familiar with a woman’s medical history
 - Difficulty in travelling
 - Poverty and lack of money

⁴ Articles 23 and 25

⁵ IHREC Country Report on Convention of the Elimination of Discrimination Against Women.

⁶ Section 5 of the Criminal Law (Sexual Offences) Act 1993 created a ‘chilling effect’ on persons with disability getting information and support. The Criminal Law (Sexual Offences) Act 2017 still discriminates against persons with disabilities.

Inclusion Ireland's Values

Inclusion Ireland prioritises the values of autonomy, dignity, social justice, democracy and inclusion in our work.

The current Constitutional amendment is not consistent with the values of dignity, autonomy and social justice.

Dignity

In our equality & human rights statement, we state that we wish to advance change in relation to laws that impact negatively on the dignity of persons with intellectual disabilities in areas of relationships, family life, financial control and hate crime. As mentioned above, the requirement to travel to access abortion services is degrading and has a disproportionate effect on persons with disabilities.

In their submission to the Citizen's Assembly, the Centre for Disability Law and Policy stated that the "current law in Ireland fails to address unreasonable burdens on the body, health, life, welfare and dignity of persons with disabilities imposed by the requirement to travel for abortion".

The Human Rights Committee draft comment referenced earlier also states that States parties should not "introduce humiliating or unreasonably burdensome requirements" on women seeking to undergo abortion. Ireland's travel requirement can be described as both.

Autonomy

We define *autonomy* as about respecting and recognising the will and preference of persons with intellectual disabilities to live self-directed lives. It involves people having and making choices.

The current Constitutional arrangement means that choice is absent for women, including those with a disability. The Irish Family Planning Association report that some women for whom travel is impossible are forced to continue with an unwanted or problematic pregnancy⁷ and being compelled to continue a pregnancy is not consistent with autonomy.

Speaking on the referendum Minister of State for Disability Issues Finian McGrath said he supported "repealing the 8th amendment and I strongly support a woman's right to bodily autonomy."⁸

⁷ Psychological, Physical and Financial Costs of Travel, Irish Family Planning Association.

⁸ Dail Eireann Debate on 36th Amendment to the Constitution Bill 20.03.18

Social Justice

The Irish Family Planning Association estimates that travelling to the UK for a surgical abortion below 14 weeks of gestation costs at least €1000.

Persons with disabilities are more at risk of poverty and deprivation than non-disabled persons and this means that the necessity to pay for travel and a fee for a medical procedure that could be available free in Ireland, represents a disproportionate burden on persons with disabilities.

Democracy and Inclusion

Our values of dignity, autonomy and social justice underpin the position that Inclusion Ireland is taking on the campaign to repeal the 8th amendment. Our remaining values, democracy and inclusion, inform us that our participation in this campaign means that we would be in a position to support the involvement of persons with disabilities and to ensure that persons with intellectual disabilities have an equal say and have their voice heard.

Previous Inclusion Ireland Campaigns

Inclusion Ireland has a long history of campaigning for equality & human rights for persons with disabilities.

This has involved influencing law and policy change and focusing on the right to choose, the right for privacy, the right to sexual and reproductive health, self-determination and the right to bodily integrity.

Some of the previous campaigns that illustrate our record are;

Decision-Making

Inclusion Ireland has campaigned for the introduction of modern Capacity legislation to support people who may have decision-making difficulty to make their own decisions. For 147 years, the Lunacy Act of 1871 has governed this area and Inclusion Ireland has campaigned for repeal of that Victorian-era law.

Our campaign centred on ensuring a disability-neutral approach so that people could obtain the support they needed without being subjected to discriminatory provisions or labelling.

Our campaign stressed the importance of decision-making, consent and the right to self determination and we fought for it to apply to all areas of decision-making, be it health, wellbeing or financial.

The Assisted Decision-Making (Capacity) Act is the product of ours, and others, campaigning, although that law is not yet fully commenced.

Sexual Relationships & Reproductive Health

Inclusion Ireland has been at the forefront of campaigning for the rights of persons with intellectual disabilities to sexual relationships and reproductive rights.

Our campaign to repeal the 1993 Criminal Law (Sexual Offences) act centred on the 'chilling effect' of that law for persons with disabilities who wanted consensual sexual relationships. That law made an offence of sexual intercourse with a 'mentally impaired' person, unless they were married.

Persons with disabilities found accessing contraception difficult as medical practitioners were afraid that they would be facilitating criminality. Conversely, many women with disabilities have experienced forced contraception and sterilisation, something now prohibited unless it is 'therapeutic' or sanctioned by the High Court.

Our campaign resulted in the repeal of the 1993 Act and the introduction of a new Act in 2017. In an improved but nonetheless still discriminatory fashion, the new Act creates a category of 'protected person' which will continue to have an impact on the freedom of a person with an intellectual disability to enjoy their rights to sexual relationships on an equal basis with others.

Cost of Disability Campaign

Inclusion Ireland campaigns on the cost of disability and poverty. Persons with disabilities are more likely to live in poverty with one in four persons with disabilities compared with one in twelve of the general population experiencing consistent poverty.

The current constitutional ban on abortion and requirement to travel can be considered a cost of disability issue as travelling outside Ireland to obtain healthcare services places a disproportionate economic burden on women with disabilities. As mentioned above travelling for a termination of pregnancy can cost thousands of euro.

As part of 'Together for Yes, Inclusion Ireland's messages are;

1. Persons with disabilities have a human right to access a range of sexual and reproductive rights: this includes the right to have children or not.
2. Persons with disabilities have a right to improved access to education, information and advocacy support in the areas of sexual and reproductive health.
3. Persons with disabilities experience inequality across many areas of Irish life including access to healthcare and poverty. The current ban on abortion has a disproportionate impact on disabled people.
4. The voice of persons with disabilities has been largely absent from the public conversation on reproductive rights.
5. Much of the information in the public conversation is inaccessible to persons with intellectual disabilities and should be available in plain English and easy to read formats so people can be fully informed and engage in the debate.

About Inclusion Ireland

Established in 1961, Inclusion Ireland is a national, rights based advocacy organisation that works to promote the rights of people with an intellectual disability.

Inclusion Ireland uses a human rights-based approach to its work. This recognises persons with an intellectual disability as rights holders with entitlements, and corresponding duty bearers and their obligations. Inclusion Ireland seeks to strengthen the capacities of persons with an intellectual disability to make their claims and of duty bearers to meet their obligations.

The vision of Inclusion Ireland is that of people with an intellectual disability living and participating in the community with equal rights as citizens, to live the life of their choice to their fullest potential. Inclusion Ireland's work is underpinned by the values of dignity, inclusion, social justice, democracy and autonomy.



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