

# Policy Statement on Access to Legal and Safe Abortion in the UK

*Proposed by Behrouz Nezafat (Medsin Liverpool), Lotte Elton (Medsin Newcastle), Louisa Chenciner (Medsin Nottingham), Felicia Yeung (Medsin KCL) and Lisa Murphy (Medsin Glasgow)*

## Summary

The right to reproductive health, as defined in the Universal Declaration of Human Rights, includes the right to have full autonomy over reproductive decisions, including how many children to have and when to have them. Medsin-UK therefore advocates for a woman's right to the full range of reproductive health services available, including family planning and abortion services, and recognises a woman's reproductive autonomy as an essential part of her universal right to health and wellbeing. 66 countries, accounting for 25% of the world's population, either do not permit abortion on any grounds or only to save a woman's life.<sup>[1]</sup> Within the United Kingdom (UK), where abortion is permitted on less restrictive grounds, there still exists a significant population of women whose access to safe and legal abortion is hampered by legislative restrictions, and across the UK the right of women to access safe abortion and the duty of care of medical professionals is hindered by harassment, stigma and discrimination. As a network of advocates for health equity, we must highlight access to safe abortion as a priority in our country and worldwide.

## Main text

One in six pregnancies among women in Britain are unplanned every year<sup>[2]</sup> because of factors such as variable accessibility to contraception, failure of contraception and lack of knowledge on pregnancy prevention.<sup>[2]</sup> Although all maintained secondary schools must provide sex and relationships education (SRE),<sup>[4]</sup> parents have the right to withdraw their child from all SRE that falls outside of the national science curriculum<sup>[4]</sup> and teaching is often variable.<sup>[5]</sup> This has implications for family planning: receiving sex education mainly from a non-school-based source significantly increases the risk of unplanned pregnancy.<sup>[2]</sup> Although the accessibility of family planning services and contraception in the UK is improving, the need for access to safe abortion still remains: in 2013, 185,33 abortions were carried out in England and Wales, representing an increase of 2.1% over the last 10 years.<sup>[6]</sup>

Under UK law, an abortion can be carried out during the first 24 weeks of pregnancy as long as certain criteria defined in the Abortion Act 1967 are met<sup>[1]</sup>. This Act states that a pregnancy may be terminated by a registered medical practitioner if two registered medical practitioners are of the opinion:

- a. that the pregnancy has not exceeded its twenty-fourth week and that the continuance of the pregnancy would involve risk, greater than if the pregnancy were terminated, of injury to the physical or mental health of the pregnant woman or any existing children of her family; or
- b. that the termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman; or
- c. that the continuance of the pregnancy would involve risk to the life of the pregnant woman, greater than if the pregnancy were terminated; or
- d. that there is a substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped.

Although Medsin-UK acknowledges that many women in the UK are fortunate in being able to access safe, legal and free abortion, we maintain that there are still several areas of concern with regards to abortion access and provision, and thus have identified 3 key hindrances to the accessibility and

safety of abortion in the UK.

### **The legal status of abortion in Northern Ireland**

When the 1967 Abortion Act was passed in the UK, it was not extended to Northern Ireland due to strong opposition by the Nationalist and Unionist parties.<sup>[8]</sup> Legislation surrounding abortion in Northern Ireland is therefore based upon the Offences against the Person Act 1861, which makes ‘procuring a miscarriage’ or ‘assisting a woman to procure a miscarriage’ punishable by life imprisonment<sup>[9]</sup> - the harshest criminal penalty for abortion in Europe.<sup>[10]</sup> The law in Northern Ireland regarding abortion is one of the most restrictive in Europe - only Ireland and Malta are more restrictive<sup>[10]</sup> - and the legislation in Northern Ireland only allows for abortions where there is a risk of real or serious long-term or permanent damage to the physical or mental health of the pregnant woman.<sup>[11]</sup> Despite a Court of Appeal judgement issued a decade ago, no guidelines exist on the implementation of the law surrounding abortion.<sup>[12]</sup> As a result, legal abortions are carried out very infrequently in Northern Ireland: official statistics detail that only 35 legal abortions were carried out in 2011/12.<sup>[13]</sup> The legislative restrictions placed on clinicians and their practice of abortion in Northern Ireland have resulted in several key consequences, which include:

- i. Increased use of unregulated “abortion drugs” that have been purchased online. A study in the British Journal of Obstetrics and Gynaecology found that women from Northern Ireland, alongside over 70 countries with restrictions on access to abortion, had used the internet to buy medication enabling them to terminate a pregnancy at home.<sup>[14]</sup> The study described that 11% of 400 customers needed a surgical procedure after taking the medication, either because the medication had not completed the abortion or as a result of haemorrhaging.<sup>[14]</sup> In addition, more than one in ten general practitioners in Northern Ireland have encountered the consequences of so-called “amateur abortions”.<sup>[15]</sup>
- ii. Significant numbers of women being forced to travel to the UK mainland to procure an abortion. In 2013, 802 patients who underwent abortion procedures in England and Wales listed a permanent address in Northern Ireland.<sup>[13, 16]</sup> This is likely to be an underestimate, as many women give false addresses in England and Wales for fear of criminal sanction. The FPA, for example, estimates that the actual figure is probably closer to 2000 per year.<sup>[13]</sup> Although a woman living in Northern Ireland is not prohibited from travelling to another jurisdiction to procure an abortion, travelling abroad for services can have significant psychological impact: *in 2010, in A.B. & C. vs Ireland, the European Court acknowledged that “obtaining an abortion abroad, rather than in the security of their own country and medical system, undoubtedly constituted a significant source of added anxiety.”*<sup>[17]</sup>
- iii. A “postcode lottery” effect: women from Northern Ireland are not entitled to NHS abortions on the UK mainland, and are therefore forced to fund their own terminations if they decide to travel to procure an abortion. This is a key example of health inequity, particularly in the context of existing socioeconomic disadvantage in Northern Ireland, where it is estimated that up to 20% of the population lives in relative deprivation.<sup>[18]</sup>
- iv. A trend towards abortions performed at a later gestation. Due in large part to the need to travel to procure an abortion, women from Northern Ireland are three times as likely as British women to terminate after 20 weeks.<sup>[6, 13, 19]</sup>
- v. In February 2015, a High Court ruling declared that Northern Ireland’s Human Rights Commission could seek a review of the abortion law in Northern Ireland, a move favoured

by more than 70% of people in Northern Ireland.<sup>[20, 21]</sup> The Commission are seeking to allow abortion in circumstances of rape, incest or “serious malformation” of a foetus.

- vi. Medsin supports and recognises the need for legislative reform concerning termination of pregnancy in Northern Ireland. Medsin maintains that at present the legislative framework that healthcare workers and clinicians must operate within causes significant health inequity, and poses a threat to the human rights, health and autonomy of women in Northern Ireland. Medsin advocates for the continuing empowerment of women in all parts of the UK to allow them to make a choice between continuing with a pregnancy or accessing a safe abortion, performed by a qualified individual, with the aim of improving the health outcomes and women across the world and respecting their reproductive health rights.

### **Protection from harassment and discrimination**

Medsin recognises that there exists a wide range of ethical and religious beliefs with regards to abortion, both worldwide and in the UK. While Medsin accepts an individual’s right to personal belief and opinion, Medsin nonetheless advocates for safe abortion in the interests of autonomy, human rights and public health, and believes that the decision to terminate a pregnancy is a personal one which should not be affected by the ethical and religious beliefs of others.

There has been a recently reported increase in anti-abortion activity, including protests in areas around specialist abortion clinics<sup>[22]</sup> as well as specific targeted harassment of university students.<sup>[23]</sup> Anti-abortion activists employ a variety of intimidation tactics towards women accessing abortion services, including, but not limited to: displaying large banners of dismembered foetuses; wearing cameras on their person or using cameras on a tripod to film women entering and leaving abortion centres; verbal and physical harassment; following or questioning women as they leave or enter; and distributing leaflets with false or misleading information.<sup>[24]</sup>

As a result, organisations such as British Pregnancy Advisory Service (bpas) have proposed the establishment of ‘buffer zones’ around abortion centres,<sup>[24, 25]</sup> in order to respect the autonomy of women and allow them to exercise their right to access a safe abortion without fear of judgement or discrimination. Infringement on this right through harassment or intimidation around abortion services may cause harm to a woman’s psychological, social or physical well-being,<sup>[24]</sup> or lead a woman to seek alternative and potentially unsafe abortion services.<sup>[24]</sup>

### **Abortion in UK undergraduate medical education**

Crucial to the role of ensuring sustainable access to safe abortion is the adequate provision of human resources for abortion care: medical students will encounter women exercising their reproductive autonomy with regards to abortion in the future, and must be well-prepared to counsel and support women to access abortion services. Medical professionals have the right to conscientious objection when it comes to providing abortion services; nonetheless, even those who wish to abstain from involvement in the procedure must be trained in and recognise the need for coherent, evidence-based pregnancy options counselling. Despite there being an increasing number of abortions taking place each year in the UK, statistics from the Department of Health show that fewer doctors are willing to perform them.<sup>[26]</sup> This has also been noted by the Royal College of Obstetricians and Gynaecologists (RCOG), who said in a statement that it is “aware of a slow but growing problem of trainees opting out of training in the termination of pregnancy and is therefore concerned about the abortion service of the future”.<sup>[27]</sup>

At many medical schools, abortion teaching is limited to a single lecture or the opportunity to attend

**Medsin-UK Policy and Guidance Statements, December 2015**

a clinic on an opt-in basis.<sup>[28]</sup> This is despite the fact that the overwhelming majority of medical students believe abortion training is a necessary part of the undergraduate medical curriculum.<sup>[29,30]</sup> These students will therefore graduate with little or no experience of abortion care and will be ill-equipped to manage abortion and its associated clinical challenges in their careers. In particular, a recently formed chapter of Medical Students for Choice at Queen's University Belfast has raised concerns about the lack of provision of training on abortion for medical students in Northern Ireland.<sup>[31]</sup> The use of ethical debates, scenarios and discussions around abortion as part of undergraduate teaching is also commonplace;<sup>[28]</sup> while this is of value in students' development as ethical thinkers, it can also serve to undermine abortion's status as a legal, safe and commonly-performed procedure. It is therefore important to allow sufficient curriculum time to teaching relating to medical and psychological aspects of abortion care.

Opt-in abortion training is particularly problematic as the impetus to develop clinical experience is placed upon the medical student or trainee: requiring students to actively seek abortion experience means that those without a special interest in abortion may not have an opportunity to observe clinical abortion care.<sup>[32]</sup> While a study into the attitudes towards abortion of 733 UK medical students showed that 23.5% would be unwilling to provide an abortion before 24 weeks in the case of failed contraception,<sup>[33]</sup> improved teaching and clinical exposure to abortion may help to increase the number of doctors willing to perform abortions in the future: a survey of students who participated in a reproductive health internship with a focus on abortion organised by Medical Students for Choice showed that, following the internship, students were more supportive of abortion provision, more likely to provide abortions in future. Crucially, given that even doctors who do not themselves practice abortion may nonetheless be involved in the care of patients seeking abortion, students were twice as likely to feel comfortable counselling patients about abortion: 93.2% felt comfortable to do so following the internship, versus 46.5% beforehand.<sup>[34]</sup>

#### ***Medsin's stance:***

As an organisation committed to a "fair and just world in which equity in health is a reality for all", Medsin-UK upholds the sexual and reproductive rights of all persons. We believe it is imperative that abortion is viewed as an integral component of sexual and reproductive rights and freedoms, and maintain our commitment to ensuring safe, equitable and accessible abortion for all those who seek it within the current legal framework. In doing so, we advocate for the extension of UK abortion law to Northern Ireland; legislation to protect women seeking abortions from harassment and discrimination; and the provision of comprehensive abortion education for all medical students.

#### ***Medsin therefore:***

- 1) Affirms its belief that:
  - a) All women should have full access and autonomy over the full range of their reproductive and sexual rights.
  - b) Access to safe abortion is a fundamental reproductive right.
  - c) All women have the right to access abortion without fear of stigma, discrimination or persecution.
  - d) Abortion providers should be able to practise without fear of persecution, whether legal, financial, physical or mental.
  - e) Effective family planning programmes and SRE reduce the number of unplanned pregnancies and induced abortions.
  - f) Legal restrictions on abortion do not reduce sex-selective abortions and should not be used as a preventative measure.
  
- 2) Is opposed to:
  - a) The stigmatisation of women accessing abortion services.
  - b) Restrictions on reproductive health services imposed by any individual or institution.

- 3) Supports:
  - a) Legislative efforts to reduce and protect against harassment and discrimination suffered by patients and abortion providers.
  - b) Further efforts to reform legislation regarding abortion to promote safe, evidence-based practice in the UK, including in Northern Ireland.
  - c) Programmes that promote awareness, use and availability of contraceptives in order to control fertility and reduce the number of unwanted pregnancies.
  - d) The provision of unbiased and evidence-based information to all those seeking abortion that is readily accessible regardless of literacy level, place of residence or language spoken.
  - e) Continued efforts to providing safe and accessible abortion services, including pre- and post-abortion counselling and post-abortion care.
- 4) Calls on medical professionals to:
  - a) Recognise abortion as a safe and legal medical procedure and reflect this in the medical advice they provide.
  - b) Practice in an evidence-based and patient-focused manner, maintaining their duty of care to the patient at all times and ensuring they do not express judgement or discrimination to the patient should they hold any conscientious objection.
  - c) Refer the patient promptly to appropriate and accessible medical services in the event that the medical professional holds any conscientious objection.
- 5) Calls upon members and affiliated organisations to:
  - a) Advocate for full access to abortion services for members of their community and women across the world.
  - b) Increase awareness of unsafe abortions with the aim of decreasing stigma relating to abortion worldwide.
  - c) Continue their work in providing and advocating for comprehensive sexuality education.
- 6) Calls on universities to:
  - a) Include comprehensive education on abortion as a compulsory part of the medical curriculum.
  - b) Provide clinical experience training on abortion on an opt-out basis rather than as an opt-in or optional component.
  - c) Ensure that abortion education focusses on abortion as a safe and legal medical procedure rather than as an ethical dilemma.

## References

- 1) Centre for Reproductive Rights. *The World's Abortion Laws 2014*. <http://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/AbortionMap2014.PDF> [Accessed 22 March 2015]
- 2) Wellings, K., Jones, K.G., Mercer, C., Tanton, C., Clifton, S., et al. *The prevalence of unplanned pregnancy and associated factors in Britain: finding from the third National Survey of Sexual Attitudes and Lifestyles (Natsal-3)*. *The Lancet*. 2013 Nov; 382(9907): 1807-1816
- 3) Department of Education. *Sex and relationship education statutory guidance*. 2000. Accessible at <https://www.gov.uk/government/publications/sex-and-relationship-education>
- 4) Long, R. *Sex and relationships education in schools*. 2004 House of Commons Library, Standard Note SN/SP/610

- 5) Department of Health. *Abortion Statistics, England and Wales: 2013*. Accessible at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/319460/Abortion\\_Statistics\\_England\\_and\\_Wales\\_2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319460/Abortion_Statistics_England_and_Wales_2013.pdf) [Accessed 19 March 2015]
- 6) *Abortion Act, 1967*
- 7) Birchard, K. *Northern Ireland resists extending abortion Act*. *The Lancet*. 2000 Jul; 356:52
- 8) *Offences Against the Person Act, 1861*. <http://www.legislation.gov.uk/ukpga/Vict/24-25/100>. The Criminal Justice (Northern Ireland) Act 1945 modified the 1861 Act to criminalize "child destruction", that is, the termination of pregnancy where "a child is capable of being born alive" (see Criminal Justice (Northern Ireland) Act 1945, <http://www.legislation.gov.uk/april/1945/15/contents>). [Accessed 20 March 2015]
- 9) Amnesty International. *Northern Ireland: Barriers to accessing abortion services*. 2015. [http://www.amnesty.org.uk/sites/default/files/eur\\_45\\_0157\\_2015\\_northern\\_ireland\\_-\\_barriers\\_to\\_accessing\\_abortion\\_services\\_pdf.pdf](http://www.amnesty.org.uk/sites/default/files/eur_45_0157_2015_northern_ireland_-_barriers_to_accessing_abortion_services_pdf.pdf) [Accessed 20 March 2015]
- 10) *R v Bourne* [1938], All England Law Reports/1938/Volume 3
- 11) *Family Planning Association of Northern Ireland v Minister for Health, Social Services and Public Safety* [2004] NICA 37 (8 October 2004) [http://www.courtsni.gov.uk/en-gb/judicial%20decisions/publishedbyyear/documents/2004/2004%20nica%2037/i\\_j\\_shef5066.htm](http://www.courtsni.gov.uk/en-gb/judicial%20decisions/publishedbyyear/documents/2004/2004%20nica%2037/i_j_shef5066.htm) [Accessed 19 March 2015]
- 12) Family Planning Association, Factsheet: *Abortion in Northern Ireland, August 2014*, <http://www.fpa.org.uk/sites/default/files/northern-ireland-abortion.pdf> [Accessed 19 March 2015]
- 13) Gomperts, RJ., Jelinska, K., Davies, S., Gemzell-Danielsson, K., Klevierda, G. *Using telemedicine for termination of pregnancy with mifepristone and misoprostol in settings where there is no access to safe services*. *BJOG*. 2008 Aug; 115(9):1171-5
- 14) Francome et al. *Attitudes and practice of gynaecologists towards abortion in Northern Ireland*. *Journal of Obstetrics and Gynaecology*. 2011, Vol. 31, No. 1 , Pages 50-53
- 15) Department of Justice Northern Ireland. *The Criminal Law on Abortion: Lethal Foetal Abnormality and Sexual Crime. Annex C*.
- 16) *A.B. & C. vs Ireland* [2010] ECHR 2032, [13]-[26]
- 17) Department for Social Development NI. *Northern Ireland Poverty Bulletin*. [http://www.dsdni.gov.uk/poverty\\_bulletin.htm](http://www.dsdni.gov.uk/poverty_bulletin.htm) [Accessed 19 March 2015]
- 18) Jackson, E. *Abortion*. *Medical Law: Texts, Cases and Examples*. 3rd Ed. Oxford: Oxford University Press, 2013, 664-723 - for points 1,2,3
- 19) Amnesty International UK. *"Amnesty launches new campaign on abortion in Northern Ireland"*. Amnesty International UK Press Release, 21 October 2014, <http://www.amnesty.org.uk/press-releases/amesty-launches-new-campaign-abortion-northern-ireland> [Accessed 20 March 2015]

- 20) Millward Brown. *Attitudes towards abortion*. October 2014, [http://www.amnesty.org.uk/sites/default/files/milward\\_brown\\_poll\\_results\\_october\\_2014\\_final\\_0.pdf](http://www.amnesty.org.uk/sites/default/files/milward_brown_poll_results_october_2014_final_0.pdf) [Accessed 20 March 2015]
- 21) Back Off. <http://back-off.org>
- 22) abort67 uni campuses
- 23) British Pregnancy Advisory Service. *Back Off: Call for buffer zones around clinics as anti-abortion activity intensifies*. Press Release, 28 November 2014. <http://www.bpas.org/bpasknowledge.php?year=2014&npage=0&page=81&news=685> [Accessed 19 March 2015]
- 24) Chi Chi Izundu, BBC Newsbeat. *Calls for law to stop anti-abortion protests outside clinics*. 28 November 2014. <http://www.bbc.co.uk/newsbeat/30126873> [Accessed 20 March 2015]
- 25) Department of Health. *Abortion Statistics, England and Wales: 2007*.
- 26) [http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsStatistics/DH\\_085508](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsStatistics/DH_085508) (accessed 22 March 2015)
- 27) Royal College of Obstetricians and Gynaecologists. *RCOG Statement on Article 'Abortion Crisis as Doctors Refuse to Perform Surgery'*. <http://www.rcog.org.uk/what-we-do/campaigning-and-opinions/statement/rcog-statement-article-abortion-crisis-doctors-refuse-> (accessed 22 March 2015).
- 28) Weinberg, I. *Abortion: The forgotten rotation. Are medical schools neglecting to teach about abortion?* Student BMJ. 2013; 21:5797
- 29) Espey, E., Ogburn, T., Leeman, L., Nguyen, T., Gill, G. *Abortion education in the medical curriculum: a survey of student attitudes*. Contraception. 2008 Mar; 77(3):205-8
- 30) Fitzgerald, J.M., Krause, K.E., Yermak, D., Dunne, S., Hannigan, A., Cullen, W., Meagher, D., McGrath, D., Finucane, P., Coffey, C., Dunne, C. *The first survey of attitudes of medical students in Ireland towards termination of pregnancy*. J Med Ethics. 2013; 10:1136
- 31) Jason Ashford. *"Medical Students for Choice hold panel discussion in Belfast - 'It's not about being pro-abortion'."* Off the Record NI, 4 December 2014, <http://offtherecordni.com/2014/12/its-not-about-being-pro-abortion-medical-students-for-choice-hold-panel-discussion-in-belfast/> [Accessed 19 March 2015]
- 32) American College of Obstetricians and Gynecologists. *Committee Opinion No. 612: Abortion training and education*. Obstet Gynecol 2014;124:1055–9.
- 33) Strickland, S.L. *Conscientious objection in medical students: a questionnaire survey*. J Med Ethics. 2012; 38:22-25
- 34) Pace, L., Sandahl, Y., Backus, L., Silveira, M., Steinhauer, J. *Medical Students for Choice's Reproductive Health Externships: impact on medical students' knowledge, attitudes and intention to provide abortions*. Contraception. 2008 Jul; 78(1): 31-5.