



Joint Public Statement from Migrant Rights Groups Ahead of Referendum on the 8th Amendment (30th April 2018)

The Immigrant Council of Ireland, the Irish Refugee Council, Nasc, the Migrant and Refugee Rights Centre and Doras Luimní collectively have over 70 years' direct experience supporting and representing women and girls from a migrant background. All organisations see the need for positive reform of the current legal environment as, based on the expertise accrued through their services and networks, migrant women including women seeking asylum, are disproportionately and adversely affected by the 8th Amendment.

Fiona Finn, CEO of Nasc, “Migrant women, in particular asylum-seeking women, refugee women, undocumented women and victims of trafficking do not necessarily enjoy the right to travel freely to another state to access reproductive health services like abortion. Because of their immigration or residency status in the country, vulnerable migrant women are often faced with a unique set of barriers which exacerbate the stress, isolation and lack of options they face. Specifically our organisations have engaged with some very harrowing cases, including asylum-seeking victims of rape, sexually exploited trafficked young women and traumatised women and girls without the necessary information or documentation to enable them to access the reproductive health options they require.”

Brian Killoran, CEO of the Immigrant Council of Ireland, said “The current legislative landscape and lack of access to information regarding access to terminations has a particularly negative impact on women from a migrant background who may not have fluent English, lack their extended family, established social networks and other support systems. They are also more likely to experience practical barriers, including economic. People from a migrant background are more likely to be on lower incomes so they often cannot afford necessary supports when faced with a challenging pregnancy. Many of the women and girls we support do not have the option to leave Ireland due to visa restrictions, putting them in potentially health-threatening situations.”

Nick Henderson, CEO of the Irish Refugee Council (IRC) said, “The IRC has worked with asylum-seeking women who are pregnant as a result of rape which occurred in their home country. Rape is a common feature of the experience of women we work with who are seeking safety from persecution and in these circumstances, women often struggle to access emergency medical care, including abortion, as in the case of ‘Ms Y’. Women in the asylum process who need to leave the State for any reason, including to access an abortion, can only do so with the consent of the Minister for Justice and Equality. It is a criminal offence not to have the Minister’s consent, yet no formal mechanism exists for obtaining this consent.”

Leonie Kerins, CEO of Doras Luimní said, “We are also concerned that women in the asylum process who need to access abortion on medical grounds may find themselves caught up in a lengthy process which may, in turn, put their health at greater risk. Having access to safe, legal abortion within Ireland would reduce this risk. Several significant barriers prevent women and girls from travelling to have an abortion and availing of the right to travel guaranteed by the 13th Amendment. They must apply for a travel document and a visa, a process that can take time and cause additional

distress to the woman who must disclose why she needs to travel to the relevant authorities and the embassy of the country she wishes to travel to. This can be a deterrent for vulnerable women, particularly as there is still considerable stigma associated with abortion.”

The organisations CEOs jointly said,

“Reflecting our practical experience, various United Nations treaty bodies (including the Committee Against Torture and the Committee on the Elimination of Discrimination against Women) have also raised specific concerns about the practical difficulties that face migrant women, including women seeking asylum, who need to travel to access abortion.”

“In summary, the women and girls we work with are adversely affected by the 8th Amendment due to their particular circumstances. It’s also important to note that most of the women we work with, and represent, will not be able to vote in this referendum. For these reasons, and based on our expertise in this area as rights-based organisations, we are supporting a yes vote to repeal the 8th Amendment by removing Article 40.3.3 from the Constitution on 25 May 2018.”

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Queries to the Irish Refugee Council

All queries to be directed to Caroline Reid, Communications Officer
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Queries to Nasc

All queries to be directed to Jennifer DeWan, Campaigns and Communications Manager
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Queries to Doras Luimni

All queries to be directed to Leonie Kerins, Chief Executive Officer
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Queries to the Immigrant Council of Ireland

All queries to be directed to Pippa Woolnough, Communications and Advocacy Manager
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Note to editors

Seeking permission to travel as an asylum seeker:

A woman in the asylum process is required to request the consent of the Minister for Justice and Equality to leave the State, as per Section 16 (3) (a) of the International Protection Act 2015. To leave or attempt to leave the State without the consent of the Minister, is a criminal offence and a person found guilty of doing so shall be liable on summary conviction to a class D fine or imprisonment for a term not exceeding 1 month or both as per Section 16 (5) of the International Protection Act 2015.

Other significant barriers exist for a woman in the asylum process seeking to travel:

- All asylum seekers are normally obliged to surrender their passport when they seek asylum. Therefore, a woman has to request a temporary travel document from the Irish State to travel.
- She also has to apply for a visa from the Embassy of the country she wishes to travel to and explain why a visa is required.
- A woman is required to fund her travel, accommodation and the abortion procedure itself from her weekly allowance of €21.60.
- Fundamentally, she may also not have access to the information outlined above.

The 13th Amendment:

Some of the consequences of inserting the 8th Amendment into the Constitution included its effect on women's freedom to leave Ireland in order to access abortion services legally available in another State. This legal uncertainty, led to the insertion of the 13th Amendment in 1992.

The circumstances which lead to the 13th Amendment resulted from the 'X case' in which an injunction was sought to prevent a young girl, pregnant as a result of rape and suffering from suicidal ideation, from leaving the State for the purposes of having an abortion in the UK.

On foot of the Supreme Court decision in the 'X case', the 13th Amendment to the Constitution was proposed and passed by way of referendum. The 13th Amendment of the Constitution (amending Article 40.3.3^o) provides that the 8th Amendment would not limit, in any way, the freedom to travel from Ireland to another state.

UN Treaty Body commentary:

Both the Committee on the Elimination of Discrimination against Women and the Committee Against Torture have noted the discriminatory impact of the requirement to travel on migrant women:

- Committee on the Elimination of Discrimination against Women: [UN Doc. CEDAW/C/IRL/CO/6-7, 2017](#), paragraph 42 (c)
- Committee Against Torture: [UN Doc. CAT/C/IRL/CO/1, 2011](#), paragraph 26