LIFE INSTITUTE

*Life Institute Submission to*

**THE JOINT OIREACHTAS COMMITTEE ON HEALTH AND CHILDREN**

*on Outline Heads of*

**THE PROTECTION OF LIFE DURING PREGNANCY BILL 2013**

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## OPENING COMMENTS

The draft Protection of Life during Pregnancy Bill aims to allow the direct and intentional killing of unborn children to take place in Irish hospitals for the first time - and no time limits will apply.

This is a travesty.

Despite the protestations of an Taoiseach regarding the scope of the proposal, the Committee must know that the legislation seeks to dramatically change current medical practice in Ireland.

It would be possible for the first time to carry out a termination of pregnancy as a treatment for suicidality.

The duty of care that doctors have towards the unborn child is also undermined by

The government has taken this decision in the face of all the best medical evidence. In fact, given that this Committee has already heard considerable evidence from leading medical practitioners on abortion and suicidality, and that the government then proceeded to ignore that evidence, public confidence in this process is now at serious risk.

There is a public perception that this government wishes to ignore evidence when it doesn't suit political ideology; that it shares the disparaging view of voters expressed in recent recorded conversations with Labour Party TDs; and that it views the European Court as being superior to the people, whose right it is, under Article 6 of the Constitution to decide all questions of national policy, according to the requirements of the common good.

## LEGAL REQUIREMENTS

The draft Bill seeks to implement the ruling in the X case. But the X case ruling is fundamentally flawed since a) it heard no medical evidence and b) it held the threat of suicide superseded the equal right to life of the unborn child. if the Government wishes to move positively to protect mother and baby, it should review the X case, and hold a referendum restoring protection to both.

Neither did the European Court require that Ireland legalise abortion or legislate for the X case. Instead it sought clarity for women regarding the availability of medical treatment which may be required in pregnancy to safeguard lives. This clarity can be provided by guidelines reflecting the duty of care to both mother and baby as provided in the Medical Council guidelines.

Finally, the ruling from the European Court of Human Rights is persuasive rather than binding, and should not be used to deny the people their constitutional right to decide on this issue. Opinion polls have shown that, while people are confused on the issue, more than 60% back a ban on abortion once necessary life-saving medical treatments can continue.

## OBSERVATIONS ON THE PROTECTION OF LIFE DURING PREGNANCY BILL

### Terms appearing in the Bill:

The Bill states that 'Relevant Specialty' means a medical specialty listed in the Specialist Division of the Register of medical practitioners established under section 43(2)(b) of the Medical Practitioners Act 2007, and relevant to the threat to the life of the pregnant woman. Has the Committee considered that General Practitioners are currently seeking to have General Practice recognised as a speciality by the Medical Council. Could GPs assume the role of specialists within the wording of the Bill?

Why does ‘medical procedure’ include the provision of any drug? Is this to facilitate chemical abortions?

The ‘unborn’ is defined as human life following implantation until such time as it has completely proceeded in a living state from the body of the woman. There is no scientific basis for this definition, and it seems to be contradicted in recent rulings from the High Court on surrogacy.

'Termination of pregnancy' is not defined in the Bill

'Emergency situation' is not defined in the Bill

## Observations on the Heads of the Bill

**HEAD 2**
The Life Institute upholds the right of every Irish woman to access life-saving medical treatment in pregnancy, while also obliging medical practitioners to preserve the life of the unborn as far as practicable.

This is current medical practise in Ireland and has served mother and baby well for many years.

The Bill says that it shall not be an offence to carry out a medical procedure in the course of which or as a result of which unborn human life is ended. However, the notes refer to the termination of pregnancy as if it were, in itself, a necessary medical procedure. The distinction between an unintended consequence and a direct action seems to be blurred in the Bill.

The Bill states that 'except in emergency circumstances, an obstetrician/ gynaecologist will always be one of the certifying medical practitioners.' Can the Committee clarify what emergency situations are likely to arise that would allow anyone else to certify someone as requiring a life-saving intervention? What type of registered medical practitioner is being foreseen as being appropriate in this imagined scenario?

**HEAD 3**
All women should be able to access any emergency treatment required during pregnancy. Again, the Bill does not make clear the distinction between a life saving intervention which results in the loss of the life of the baby and a direct action to end the life of the child.

'Emergency situations is not defined in the Bill.

The notes state that 'Because of its emergency nature, this termination may be carried out in a location other than a public obstetric unit'. In what circumstances does the Committee envisage that arising.

**HEAD 4**
We have attached the evidence from the previous Oireachtas Committee hearings on the issue of suicidality arising in pregnancy.

Suffice it to say that if the Government chooses to ignore such expert evidence then the consultative process is a sham.

Furthermore, 113 psychiatrists have since told the government that the new legislation would require doctors to "participate in a process that is not evidence-based" and said that should not be asked of the profession.

Despite that, this Bill allows for an unborn child to be deliberately killed, in circumstances where no physical threat to a mother's life exists, through all nine months of pregnancy,

Minister of State, Alex White, has confirmed that there will be 'no time limits' in the legislation.

This Bill would authorise the intentional killing of an innocent human being in Ireland for the first time.

Ireland, long a light to the world for her exemplary protection of mothers and babies, is now to legalise late term abortions.

Think about what that means. Consider what science tells us about that child in the womb.

The baby is perfectly formed at eight weeks. Every day after that, muscle gets stronger, bones get denser, and the baby gets bigger.

What are Irish doctors going to do? What methods are they going to use? Will the Commitee address this issue?

If a baby's life is to be ended 5 months into the pregnancy for example, what method of termination will be used?

In order to distract from the horror of late term abortion, Health Minister James Reilly is suggesting that, after 6 months, the baby could be delivered prematurely and kept alive. That would deliberately inflict all the serious problems of extreme prematurity on a physically healthy baby – being born to a physically healthy mother.

All decent doctors would be appalled at this prospect.

Neither does the prospect of legal liability does not seem to have been given due consideration in this instance.

## CONCLUSION

Instead of ensuring that both mother and baby are safe, this Bill wants to begin the medieval practise of offering the violence of abortion as a solution to a woman in crisis. Where mental health issues arise in pregnancy, the answer must be to offer support, compassion and professional assistance. This Bill seeks to end the life of a baby instead.

This is a cruel, archaic and unacceptable Bill. It should be abandoned. Mothers and babies deserve better.

## WHAT THE EXPERTS SAID AT THE HEARINGS - AND MORE

### ON ABORTION AND SUICIDE

**1. All of the medical experts agreed that abortion is never a treatment for suicidality**

"There is no evidence either in the literature or from the work of St Patrick's University Hospital that indicates that termination of pregnancy is an effective treatment for any mental health disorder or difficulty."
*Prof James Lucey, St Patrick's University Hospital*

"...we need to become very focused on the fact there are other treatments for suicide. If a male patient pitched up in accident and emergency tonight and said he wanted to kill himself, there would be medical treatments, drugs and therapies, and these would be reviewed in a couple of weeks. That is the first-line treatment, and cases are reviewed after a couple of weeks."
*Dr Mary McCaffrey, OB/GYN, Kerry General Hospital*

"..there is no evidence that abortion reduces suicide risk in pregnant women, and there is some evidence that it may have a negative effect in some instances."
*Professor Patricia Casey, Mater Hospital and UCD*

**2. None knew of a case where abortion was the only treatment for a woman who was suicidal**

"However, we have not had the experience of seeing any women who were suicidal where the appropriate treatment for their suicidal feelings would have been a termination of pregnancy."
*Dr Anthony McCarthy, College of Psychiatry*

"Although we have discussed this among the group [of 12 Obstetricians and Gynaecologists] , I personally have no knowledge of ever having cared for a woman who wanted to end her life specifically because of a pregnancy, and in my pursuit of information over the past week or so, I have been unable to identify any other consultant who did know of such a woman, which backs up the information we already have - i.e. that this is an extremely rare situation."
*Dr Mary McCaffrey, OB/GYN, Kerry General Hospital*

"I was asked if we have ever had to perform a termination of pregnancy because of risk of suicide; not in my experience."
*Dr Sam Coulter Smith, Master of the Rotunda Hospital*

"I refer to Deputy Terence Flanagan's question on whether we, as perinatal psychiatrists, have ever seen a situation in which termination of pregnancy has been the treatment for a suicidal woman. To reiterate our statement, with more than 40

years of clinical experience between us, we have not seen one clinical situation in which this is the case."
*Dr John Sheehan, Consultant Perinatal Psychiatrist, Rotunda Hospital*

"However, one must remember that it is absolutely individual, and for us, with our 40 years of experience, we have never assessed a woman for whom our management would be to advise a termination and for the legislators, this must be taken into consideration."
*Dr Joanne Fenton, Consultant Perinatal Psychiatrist, The Coombe Women's Hospital*

"In my work as a psychiatrist, I run the attempted suicide service in the Mater Hospital in which we see and assess more than 400 attempted suicides in women per year. I have never seen a pregnant woman who was suicidal for whom an abortion was the only answer."
*Prof Patricia Casey, Mater Hospital and UCD*

**3. None knew of a case where a woman had died by suicide because abortion was not available**

"I am not aware of any death from suicide because a termination was declined."
*Dr Mary McCaffrey, OB/GYN, Kerry General Hospital*

"All appropriate mental health supports need to be made available for women who are at risk of suicide, have threatened to commit suicide, or have suicidal ideation. The committee can ask the psychiatrists, but most people would agree that termination of pregnancy is not a treatment in this regard."
*Dr Sam Coulter Smith, Master of the Rotunda Hospital*

**4. Senior psychiatrists testified that abortion would be "completely obsolete" in respect of a person who is extremely suicidal**

"Someone who is intensely suicidal often needs admission to hospital. It is exactly the opposite to the medical intervention and, consequently, even the notion of carrying out an emergency termination is completely obsolete in respect of a person who is extremely suicidal. I reiterate that in our practice, we see people who are profoundly depressed, who feel hopeless, worthless or utterly helpless to deal with situations. In such situations, one can see clearly the intervention usually is to admit such people into hospital, day hospital or home care but the intention is to support and help them through the crisis they are in. It is not to make a decision that is permanent and irrevocable."
*Dr John Sheehan, Consultant Perinatal Psychiatrist, Rotunda Hospital*

"If the woman is profoundly depressed and mentally ill, she would be advised not to take any major life decision at that time, and frequently admission to hospital might be advised. Ongoing review and monitoring would typically be required."
*Dr Anthony McCarthy, College of Psychiatry*

**5. Evidence was given that abortion can actually increase the risk of suicide**

"There is also a study which was carried out in Finland, which I did not have an opportunity to refer and which focuses on related suicide in women who had abortions or miscarriages or who gave birth. That study indicates that among those who had abortions, the suicide rate was six times the national average. In those who gave birth, it was half the national average. There is data to support the proposition that there is no evidence that abortion helps women's mental health."
*Prof Patricia Casey of the Mater Hospital on a study which has found that women who undergo abortions were six times more likely to die by suicide.*

"Every one of us working in the perinatal service will have seen women who had terminations of pregnancy and who will feel profoundly guilty about that during a subsequent pregnancy, and it will have a negative effect on them."
*Dr Anthony McCarthy, College of Psychiatry*

**6. Experts confirmed that suicide in pregnancy is very rare. They also warned against 'normalising suicide'**

"The risk of suicide in pregnancy is extraordinarily low."
*Dr Sam Coulter Smith, Master of the Rotunda Hospital*

"International studies suggest that the suicide rate in pregnancy is from a third to a sixth of the expected rate in non-pregnant women, indicating that frequently pregnancy confers a protective effect against suicide."
*Dr Anthony McCarthy, College of Psychiatry*

One of Ireland leading experts on suicide prevention, *Professor Kevin M. Malone, of St. Vincent's University Hospital and UCD,* also made a submission to the hearing where he warned of the danger of the law 'normalising suicide':

"Legislating for this inexplicably legitimises and normalises "suicidality" under certain conditions - for women only. By foregrounding a theoretical risk of suicide in women, and enshrining "suicidality" in Irish law, the proposed legislation runs the risk of further invisibilising, normalising, and at worst exacerbating the much more real and volatile threat of increased suicide risk in Irish men, and potentially accelerating suicide risk in young women also. ..[I]t would be regrettable and perhaps unethical if legislation on "suicidality" were to potentially compromise the therapeutic alliance between psychiatrist and patient. Extreme caution is advised in terms of uninformed or misinformed legislation generating unintended consequences," he wrote.

As *Dr Jacqueline Montwill*, consultant psychiatrist, has said, the treatment for suicidality in a pregnant woman "is to make sure that the patient is safe, make sure that patient is on the appropriate medication... and to make sure that the appropriate psychological treatment, support, intervention and nursing support is made available to her."

## OTHER EVIDENCE ON SUICIDE

**A.** The Chairman of the Irish Association of Suicidology has said that legislation based on the X case would create a 'logistical nightmare' for psychiatrists if implemented.

Dr Justin Brophy, a consultant psychiatrist with Wicklow Mental Health Service, made his comments in an interview with an Irish language newspaper, Gaelscéal.

Dr Brophy said that medical judgements can be wrong and that suicidal intent is an 'easily fabricated condition' and that while psychiatrists can show that a woman is suicidal based on her stated symptoms, it is very difficult for them to prove that a woman who says she is not suicidal is not, nor is it their job to do so."

**B.** Eleven top-level consultant psychiatrists have also written to Fine Gael advising them that "termination of pregnancy is not a psychiatric treatment for suicidality, nor is it mentioned as such in any of the major textbooks of psychiatry." The letter also expresses the belief that "offering an abortion to a distressed person who is psychiatrically ill would be strongly ill-advised since the person's capacity to make important life decisions is frequently impaired."

**C.** And former Fine Gael leader, Mr John Bruton, has opposed legalising abortion on suicide grounds. He said that "when you actually look at the words in the constitution which talk of an equal right to life. Well, a possibility is never equal to a certainty. All you can ever say about suicidal ideation is that there is a possibility that it might be fulfilled, whereas in the case of a termination you have the certainty of the ending of that other life ..."

**D.** A British abortionist has admitted that the mental health clause in the British Abortion Act is routinely abused. In a BBC Panorama programme, Ann Furedi, the chief executive of the British Pregnancy Advisory Service, has admitted that British doctors actively 'pretend' that women's mental health is at risk so that they can sign off abortions without questions being asked.

The programme also heard from Professor Clare Gerada, chairperson of the Royal College of GPs, who confirmed that the mental health risk is not objectively tested. "What we have is what the woman tells us," she says. "It isn't for me to judge her or be moralistic."

## ON PROTECTING MOTHERS' LIVES

**1.** Experts testified that not one woman has died in this country because of our ban on abortion or the provisions of the 1861 Act

“I was asked if there had been any needless maternal deaths because people would not or felt they could not act. I am not aware of any such case.”
*Dr Sam Coulter Smith, Master of the Rotunda Hospital*

“I am not aware of any needless deaths ... I have never withheld treatment because of the law and I am not aware of it occurring in my unit. I have never heard of it from a colleague. Women receive appropriate treatment.”
*Dr Mary McCaffrey, OB/GYN, Kerry General Hospital*

“I am not aware of any situation in which the lack of legal clarity prevented appropriate care. It has certainly not occurred in our hospital and I am unaware of it occurring anywhere else. I have never withheld appropriate treatment from a patient when it was required.”
*Dr Sam Coulter Smith, Master of the Rotunda Hospital*

**2.** They confirmed that doctors do not need to directly end the life of the unborn child in order to save a mother's life

“I was asked if there were circumstances in which a foetus had to be killed in utero rather than delivered. In most circumstances it is possible to deliver the baby or foetus without killing the baby inside.”
*Dr Sam Coulter Smith, Master of the Rotunda Hospital*

“We never kill a foetus. That is not our aim. Occasionally it is required that we deliver a pregnancy before the baby is viable or capable of surviving in our neonatal intensive care unit. When there is any possibility at all that we can preserve the life of the baby we will do so. We are able to do so from very low gestations, from 23 weeks on and in those cases members can be very certain that we will make every effort to preserve life.”
*Dr Rhona O’Mahony, Master of the NMH, Holles Street*

**3.** Doctors reaffirmed that there is a difference between abortion and the interruption of a pregnancy for a life-saving procedure

“There are a number of issues that I would like to highlight. The first, on what might seem a small point but is hugely important, is the terminology we use when we talk about this subject. Some people will use the term ‘abortion’, while some will use ‘termination of pregnancy’. It is of enormous psychological importance to a woman who is having her pregnancy interrupted for a life-saving procedure whether we call that an abortion or a termination of pregnancy.”
*Dr Sam Coulter Smith, Master of the Rotunda Hospital*

*Which echoed the Clinical Practice Guide of the Institute of Obstetricians and Gynaecologist:* "Women are sensitive about references to pregnancy loss. As their loss is not out of choice, use of words like 'abortion' can be sometimes offensive at a vulnerable time. Hence, discussion or documentation of management of early pregnancy loss should be worded appropriately."

**4.** A group of 15 obstetricians wrote to the Committee supporting the view that existing medical guidelines protected mothers and doctors. They had been excluded from giving evidence

"The proposed legislation arises not from any evidence-based medical need but from obligations to the Government arising from the European Court of Human Rights," they wrote. And they pointed out that: "Legislation may influence doctors into taking a legal rather than a clinical perspective when making critical decisions. Well-established clinical practice in seriously ill mothers may become subject to regulations that result in delaying clinical action to transfer or deliver a patient. Existing guidelines cover such situations."

**The medical experts also warned that:**
"Legalised abortion may affect recruitment of doctors into Obstetrics and Gynaecology in the long term. Compulsion to perform abortions by regulators or employers would exacerbate this.

Section 58 and 59 of the Offences against the Person Act remain the Law in the United Kingdom, and have been used in recent times in the prosecution of illegal abortion providers. The removal of these sections has implications wider than for medical practitioners only."

And they pointed out that "Maternal outcomes in Ireland are acknowledged to be of the highest international standard and better than those of our nearest neighbour, the UK. Psychiatric grounds for abortion on the basis of suicide risk appear non-existent, in the view of experts in this field. An obstetrician, the doctor with a responsibility to two patients, faced with terminating a normal pregnancy on grounds of suicide risk would be placed in an impossibly conflicted situation, where there is no benefit to the mother," they said.

**5.** One leading obstetrician described as 'histrionic' claims that doctors were in fear of being jailed because of Ireland's pro-life laws

*The Irish Independent reported that:*
"Claims by Dr Rhona Mahony that obstetricians work under the shadow of going to jail were described as ‘histrionic’. Dr Mahony, who is Master of Dublin's National Maternity Hospital, told the Oireachtas hearings on abortion that: “I need to know that I will not go to jail, if in good faith, I believe it is the right thing to save a woman's life, to terminate her pregnancy.”

Dr Trevor Hayes, a consultant obstetrician at St Luke's Hospital, said he found her remarks to be ‘histrionic’.
"I never heard of any doctor being concerned about the gardai coming in. When you are a doctor, your first law is to above all, do no harm. If you have to bring forward a delivery to save a mother's life, you are clear, as a doctor.””

www.independent.ie/national-news/maternity-chief-accused-of-histrionics-3350345.html