GOVERNMENT WHITE PAPER ON ABORTION

SUBMISSION FROM **YOUTH DEFENCE**

YOUTH DEFENCE

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INTRODUCTION

Of all the issues confronting the All Party Oireactais Committee on the Constitution, the issue of abortion is undoubtedly the most emotionally charged, and, in the consequence, has the appearance of being the most difficult. Certainly it is the case that whatever recommendation is made will face significant opposition. The question of whether that opposition is substantial in the sense of being logically sound, morally just, and representative of the wishes of the Irish people, however, is quite another matter.

The Committee will be aware that the case for liberal abortion laws enjoys the support of powerful sections of the Irish media, both broadcast and print. The Committee will also be aware that a caucus of ideologically determined liberals exists within the Oireactais itself. It is possible, therefore, that the national debate may not have what we might term a perfectly "balanced" quality if we are merely calculating the amount of noise which the supporters of abortion provision are able to make. It has been made clear however, by the submissions made to the Interdepartmental Working Group which produced the Green Paper on abortion, that the representative force of this noise is almost nil. There exists in Ireland no public, and by association no democratic, pressure for legalised abortion, regardless of whatever degree of limitation is proposed. The supporters of legalised abortion have been unable, even in their tiny numbers, to reach any meaningful agreement among themselves, and have certainly failed to impress their case on the public-at-large. This is in spite of having both considerable time, nearly eight years since the X judgment, and disproportionate media access.

On the other hand, the enormous response by Pro-Life organisations and individuals has revealed with equal clarity the determination of the majority to completely prohibit abortion. The recognition of this fact in the Green Paper is to be heartily welcomed. The resources available to these organisations and individuals has been limited, their media access restricted and often negative, and their members, particularly of Youth Defence, positively persecuted with clear political motivation. Their ability to maintain an effective opposition to legalised abortion has been entirely due to the support received form the overwhelming majority of ordinary Irish people. The representative character of

their case has been repeatedly proved and, far from weakening in their resolve, they have grown steadily stronger, in numbers and determination, over the passing years. As such, it bears repeating that the opposition to legalised abortion comes from the Irish people, naturally and spontaneously. It needs only the opportunity, afforded by a referendum, to have that will be given concrete expression in law.

And while we might well appreciate the thoroughness of the authors of the Green Paper in outlining both the options available and the contextual background, it is unfortunate that they fail to give the kind of guidance to the Committee which it surely would have expected. Specifically, the absence of any objective ethical framework led to the Paper outlining options in such a way as to suggest that they were morally equal and that the only questions arising were matters of practical application. We regard such methodology as unsound, and, must, with respect, regard the Paper itself as fundamentally flawed for this reason.

Bluntly stated, and without apology, abortion is murder. The circumstances are not strictly relevant to the act as such, since they may well alter the level of responsibility imputable to the participants, but cannot alter the objective character of the thing itself. It is a source of regret that the Green Paper treats the humanity of the unborn child as a subjective opinion, rather than an established scientific fact. It should be noted, however, that no serious effort was made by those persons advocating legalised abortion that the unborn child was not a human being. It may safely be concluded that they no longer believe that such a case can be made. The Committee, we hope, will, in the course of its deliberations consider the facts of foetal development which have a crucial bearing on the debate, especially insofar as much of this knowledge was not available at the time that other countries framed their liberal abortion laws. It will be clear then, that the Pro-Life case is supported by more than electoral numbers, but is also a case founded on natural justice.

The Committee will not have the luxury of moral neutrality, which was available to the Interdepartmental Working Group. The nation expects a decision and a decision cannot be divorced from its moral dimension.

Youth Defence have at all times approached the issues arising from abortion with a profound sense of the enormous responsibility involved. Aware that the

matters under discussion are literally ones of life and death, it is incumbent upon all involved to understand the seriousness which goes beyond political calculation or ideological obtuseness. In this context, we awaited the publication of the Green Paper as a defining moment and we awaited it with an open mind. With all due respect to its authors, however, the defenders of the right-to-life of Mother and Child in Ireland are disappointed with the outcome, and it would be a shirking of responsibility to attempt to hide that disappointment. There is, of course, for those determined to protect the right-to-life of Mother and Child, only one real option: that of a complete constitutional ban on abortion, though, even here, the Green Paper is disappointing in its treatment of the issues arising.

The submission made here to this Committee is consequently in large measure the elaboration of that disappointment.

CERTAIN PRELIMINARY NOTES

It is important to a full understanding of Youth Defence's attitude to the various options outlined in the Green Paper, that certain preliminary matters be established:

(A) In the chapter concerning Pregnancy and Maternal Health, the Green Paper is essentially rehashing old arguments which have long since been settled. When we say settled, we do not, of course, mean politically, since the ability of the supporters of abortion to ignore established facts is notorious; rather, we mean medically, and by the only body competent to make such a settled assertion, the Medical Council. Without returning in detail to issues dealt with at length in the original submission, we recall to the attention of the Committee that the Medical Council has held that abortion is always unethical and a striking off offence. That they do so in a context which states that the with-holding of necessary medical treatment from the Mother is also unethical is the clearest endorsement of the view that the perceived conflict between the right-to-life of the Mother and, here, Child, is of purely legalistic invention, and has no basis in medical fact or practice. We would remind the Committee that those doctors making the claim that abortion is sometimes necessary to save the life of the Mother have had ample opportunity to present their case in the appropriate forums and, in failing to do so convincingly, have instead made unfounded and irresponsible statements to the media. Doctors who resort to so-called therapeutic abortions, or support such resort, are incompetent to practice medicine and to have their tiny minority views juxtaposed to the Medical Council's is a vain attempt to skew the frame of debate.

(B) The Chapter on the States Obligations under International and European Union law raises serious concerns beyond the issue at hand. The Green Paper's inability to reach any conclusions concerning the effects of Irelands signature to various Covenants and Conventions has appalling implications. It is impossible to escape the conclusion of governmental incompetence in assuming potential obligations without being aware what those obligations might eventually amount to. This much is certain, that

any obligation to legalise the crime of murder cannot be reconciled with any but the most absurd conception of "human rights" and it follows that the solution must be to withdraw from such Covenants and Conventions as might enforce such an obligation.

(C) No sensible person can have any confidence in the legal force of the Solemn Declaration of the High Contracting Parties. It is not found in the text of the Maastrict Treaty, and it may be taken to relate to the political effort to achieve a "Yes" vote in the referendum on the Treaty and to have no independent existence from this purpose. It must therefore be placed outside our thinking on implications of Protocol No. 17, insofar as it might restrict our ability to amend Article 40.3,3.

(D) The laws relating to abortion in other jurisdictions (excepting the U.K.) have no consequences for ourselves. When, where, how and under what circumstances other countries have resorted to the barbarity of killing their own children raises frightening questions for their peoples, and, as a revelation for what may await us, they may have the effect of dramatic warning. If, however, the implication is that we should somehow conform, this is to be entirely rejected. Rather we should serve as their example to aspire to, in efforts to recover civilized values. The availability of abortion in the UK has of course resulted in the killing of Irish children and should be the subject of objection and protest, at least as forceful as that directed against the operation of the Sellafield Plant.

(E) The statistics on quoted abortions carried out on Irish women in the U.K. are falsely represented as established fact. We would draw the Committee's attention to the method of compilation. Though an official government body publishes the figures, the original source is the abortion clinics themselves. Is it really too much to question the honesty of organisations who kill children for profit? It is significant that all sides agree that the figures are inaccurate, though different conclusions are drawn.

(F) Reference is made to certain problems of definition arising out of the wording of Article 40.3,3 if it were to be retained. These problems arise only in a context which seeks to introduce abortion in some circumstances. A complete prohibition on abortion does not require

definitions as to what is an unborn any more than it is required to define human being in the context of prohibiting ordinary murder. That such a complete prohibition would have the effect of prohibiting abortafacient drugs or interfere with embryo freezing and some current practices in I.V.F. is not to be regretted.

(G) It is absurd to grant any weight to submissions made by supporters of legalised abortion. Their tiny number, their unrepresentative character and their barbaric logic ought to have concentrated the mind of the Interdepartmental Working Group on finding the means by which the will of the civilized majority should be enacted. We must strongly object that their views were treated with a respect undeserved.

POSSIBLE CONSTITUTIONAL AND LEGAL APPROACHES

We propose to deal with the various options on possible Constitutional and legal approaches in a reverse order to how they are found in the Green Paper since this will eliminate the most absurd options first.

OPTION (VII)

PERMITTING ABORTION ON GROUNDS BEYOND THOSE SPECIFIED IN THE X CASE

The Green Paper is correct in stating that all the cases considered broadly under this option would require an amendment to Article 40.3,3. As a matter of pure practicality, this places the option outside the frame of the serious consideration. The Committee will be aware just how few submissions supported this option which is, in itself, an indication of its absurdity. The fact that such submissions as did support it come from sources for which the phrase "tiny fringe group" is an understatement of gross proportions underlines this obvious point

There is no public support whatsoever for this option and it is hard to imagine that if it were put to a referendum in any form it would achieve even a double-digit percentage. In short, it would not pass.

It should not entirely be ignored, however, since, within the parameters of this option is a clear sign post as to the direction we would be taking a nation if we seek to tolerate abortion in any degree. Strictly speaking there is no moral difference whatever between the various ideas for limited abortion and an unlimited form which this option envisages. There seems little doubt that if the door to the death culture is opened at all that it will add fuel to these currently marginalised views. The Irish people are not natural hypocrites and will easily see the hypocrisy of maintaining restrictions once the principle (of protecting human life) has been removed. Indeed, we can see, in the propositions made under this heading, just what it has done to the mindset of those few who have adopted the death ethic as their own. Abortion on any of the grounds dealt with in this section must quickly descend to abortion-on-demand sooner rather than later.

We would note especially that the proposition that abortion be allowed for congenital malformation is essentially an attempt to equate the value human life with materially ascertainable quantities. The Committee will be aware that this philosophical view is, in reality, necessary for supporting any form of abortion, and in the nature of normal practice, matters generally reach their logical conclusions quickly. If we kill the handicapped in the womb then logically we ought to be able to kill the handicapped born alive. The definition of handicap is also problematic and open-ended.

And being quite serious, if we are to allow abortion for social reasons, can we, without irony, bring before the courts for judgment persons accused of killing their children, their spouses, their neighbors or indeed any person. Shall it become a defence for murder that the continued life of their victim was "troublesome"? We should not therefore be surprised to find the cultures of countries adopting such Liberal regimes have grown violent in the extreme.

This option is utterly rejected by Youth Defence.

OPTION (VI)

REVERSION TO THE PRE-1983 POSITION

The recognition by the Green Paper that the reversion to the pre-1983 position would not of itself negate the decision in the X Case is to be welcomed as clear-headed and correct. It has been repeatedly and falsely stated that the X decision was brought about by a mistake of the Pro-Life movement in advocating the Eighth Amendment. Firstly the wording of that amendment was originally of government inspiration and specifically Fianna Fail responsibility. It was supported by many Pro-Lifers reluctantly and with hope rather than full confidence. Secondly the X decision flowed naturally from the 1861 Act, a fact referred to by Mr. Justice Egan. The enactment of the Amendment was an attempt to forestall what otherwise would have been inevitable. The principle involved in the attempt remains valid despite subsequent events and the logic, which inspired Constitutional change, remains true.

There is the most extraordinary suggestion that the right-to-life of the unborn child may have been protected constitutionally before the enactment of the Eighth Amendment. While this assertion, based on the *obiter dicta* of several

cases, was always flimsy, the X Case itself puts it finally away. In the course of the judgment, reference is made to Justices' view (quoted from McGee vs. The Attorney General and otherwise supported) that, “no interpretation of the Constitution is intended to be final for all time. It is given in light of prevailing ideas and concepts.” How a right vaguely referred to in non-binding sections of previous judgments is supposed to survive such logic is unstated. We may safely conclude that no such implied right would have any standing.

It is quite clear, therefore, that the removal of Article 40.3,3 would almost certainly result in legalised abortion in the context of a purely Irish reading of the law, certainly on grounds as wide as those provided for in the X decision, and conceivably on grounds even wider since the unborn would not now have any explicit rights at all.

The removal of Article 40.3,3 and significant amendments to the 1861 Act with a view to using it as a legislative vehicle to completely prohibit abortion encounters a number of objections. Firstly, a purely legislative prohibition on abortion may well prove unconstitutional under the logic employed in the X case or other more extensive propositions. Secondly, any removal of 40.3,3 certainly removes the protection of Protocol 17 of the Maastrict Treaty from subsequent legislation and leaves such laws as may be enacted vulnerable to European law. Thirdly, the right of the Irish people decide the issue is removed.

During the course of deliberating on the options available in 1983, it was proposed and rejected that a purely legislative prohibition be introduced, even with the provision by Constitutional amendment that such legislation could be placed outside the remit of the Courts. It was rejected because, quite correctly, the issue of abortion was held by the majority to be a question of such paramount significance that it was for *the people*, not the legislature or the courts, to decide. This is the essential purpose of Constitutional law, to place certain rights above politics in the ordinary sense and thus protected by society in concert. It has been stated by some that the Constitution is not the appropriate vehicle and that it is, rather, the place for declarations of broad principle. As such, the Constitution would serve no real purpose at all and the fact that some Constitutional lawyers have expressed this view does not alter the inanity of the notion. We would remind the Committee that the abortion issue only becomes legally complex when attempts are made to allow some but not all abortions.

Reverting to the pre-1983 position, regardless of what might be proposed by way of legislation, would be rejected by all Pro-Life groups of any standing, and since it would require a referendum the Committee may confidently expect that it would fail.

This option is strongly rejected by Youth Defence.

OPTION (V)

LEGISLATION TO REGULATE ABORTION IN CIRCUMSTANCES DEFINED BY THE X CASE

The Committee will be ware that there is a considerable degree of party political support for this option within the Dail. They will also be aware that whatever is stated in various submissions it is the real and only practically possible objective of the pro-abortion forces. The reason, and, indeed, the motivation are the same. Firstly, this option does not require a referendum, and thus, not being subject to the peoples judgment, it does not have to encounter the overwhelming rejection of legalised abortion which is their will. Moreover it is a fact that while the X decision superficially restricts abortion it would be impossible to implement those restrictions in real situations. They, whose avowed aim is to have abortion-on-demand, know that legislation for the X decision, while not employing their rhetoric, must enact their agenda. Fortunately for the unborn child so does everyone else.

Those politicians who are opposed to a referendum are afraid that their unpopular views on this issue will be rejected by the Irish people and that any campaign on behalf of their pro-abortion views would fix their names in the public mind in association with this abhorrent practice.

Some suggestions have been made as to the possibility of referring such legislation to a referendum. While this might serve to underscore, once and for all, that the rejection of the so-called “substantive issue” amendment in 1992 was a rejection of the X judgment in its entirety, this can hardly amount to a justification for a national referendum. It is salient to note that while pro-abortion figures in the media and elsewhere have implied that the Irish people rejected the restriction of that judgment, by removing the threat of suicide as grounds for abortion, and have thus claimed it as a victory, there is a veritable panic at the

mention of testing that assertion. On the other hand, while we would not welcome a pointless ballot, Youth Defence would nonetheless meet such a prospect confident of success.

To legislate without recourse to a referendum, the approach apparently favoured by most supporters of this option must prove to be a positively dangerous course of action. There is in this country already a growing disenchantment with the ordinary workings of the democratic process, a feeling that voting serves no purpose and achieves nothing. It may well be that this feeling is largely one of apathy, yet it should not be discounted either that a growing number of electors are concerned that decisions made by "consensus" are deliberately designed by the political establishment to exclude the wishes of the people. On an issue of such emotional force as abortion, any legislation which sought to bypass the people would undoubtedly fuel the belief that the system is in fact corrupt. We would strongly urge the Committee to understand that withdrawal in disgust is not the same thing as apathy.

The threat of suicide as grounds for abortion is in practice impossible to regulate no matter what legislation is employed. It would, for example, be impossible to impose a certification process since psychiatric professionals are the first to admit that identifying those seriously at risk of suicide is largely a process of estimating probabilities, and this is without the added motivation for false claims that providing abortion on these grounds would create. Moreover, any certification process would itself be open to manipulation by unscrupulous abortion providers.

It is not possible to implement any meaningful regulation of the decision in the X case which would differentiate it in practice from Option VII.

As such Option V is utterly rejected by Youth Defence.

OPTION (IV)

RETENTION OF THE CONSTITUTIONAL *STATUS QUO* WITH LEGISLATIVE RESTATEMENT OF THE PROHIBITION ON ABORTION

We are at a loss to understand why this idea has been presented as a separate option. There is nothing whatever to differentiate it from legislation Option V except the descriptive language of the Green Paper itself. Phrases such as

"double lock" and how it would not become a "back door" are misleadingly forceful and have no substance in reality. In fact, it would be a matter of serious concern if the Interdepartmental Working Group should suppose that strong terminology could replace sound law, or at least replace it in the popular imagination.

As stated, there is an extreme difficulty and probably a practical impossibility involved in regulating the X decision to conform to the limits set out in the judgment as the Justices would have understood it. There is as a matter of certain fact no possibility of restricting the judgment to any extent by means of legislation without a Constitutional Amendment. It is dishonest to claim otherwise.

This pseudo-option is strongly rejected by Youth Defence and moreover it is to be objected that it was included as a distinct option at all.

OPTION (III)

RETENTION OF THE *STATUS QUO*:

In preface it should be remarked that there is no substantial reason why the existing situation should continue as the Green Paper states, "if it is not possible to reach consensus on constitutional and/or legislative reform." If such were the case, then it is difficult to understand why the Working Group was set up, or indeed, why the Committee has been given the task of presenting a recommendation. There never was any serious possibility of achieving a consensus if we are to take this to mean anything like an agreement between persons representing diametrically opposed views on the moral implications of the abortion debate. It ought to be obvious that the priority in this process is to arrive at the right decision in the broadest sense of that word rather than find the path of least resistance.

It is worth reminding the Committee that the mania for consensus is entirely confined to supporters of legalised abortion and betrays, again, that fear of the judgment of the Irish people. No one understands better than ourselves the stresses and strains involved in what is pejoratively termed "a divisive referendum," yet we are forced to note that no such concern was evidenced in the previous administration's decision to hold a referendum on the divisive issue of Divorce. In fact, such divisions as exists in Ireland on abortion are present

regardless of whether a referendum is held or not. A referendum represents, therefore, a means by which the issue may be settled by the Constitutional means of settling such divisions within a democracy. To refuse a referendum on the grounds that a consensus cannot be reached is consequently absurd. Moreover, it is difficult to conceive of an issue on which a greater number of Irish people are in perfect agreement. If it were not for powerful allies within the media, the pro-abortion lobby would be unable, by its numbers, to feature on the national agenda at all. We would refer the Committee to the number of submissions favouring a complete prohibition on abortion juxtaposed to those favouring various forms of abortion provision.

Aside from this, however, it is to be welcomed that the Green Paper has recognised that the current position is unsatisfactory to every point of view and completely unworkable in the longer term. The law cannot forever remain in a state of suspended animation and while there exists the remote possibility that a future Supreme Court might give a Pro-Life interpretation to Article 40.3,3 this would only underline the weakness of a provision which rightly, or wrongly, would be seen as being in a judicial flux.

It was, in part, a distrust of judicial activism which prompted the original Amendment to the Constitution and nothing in the years which have followed could lead the sensible person to any other conclusion than that this distrust was abundantly justified. The Courts have in fact shown themselves to be capricious to a degree bordering on, if not crossing over the line of impeachable "stated misbehaviour." To leave the matter of life and death, which is abortion within their discretionary power would be negligent in the extreme.

Youth Defence are pleased to concur, albeit under somewhat different reasoning, with the Green Papers rejection of this option.

OPTION (II)

AMENDMENT OF THE CONSTITUTIONAL PROVISIONS SO AS TO RESTRICT THE APPLICATION OF THE X CASE

In considering this option, the Green paper is approaching the core of the real controversy about abortion in Ireland. This is the only form in which the legalisation of abortion commands any measurable degree of public support and the only one which ever had any possibility of being accepted by the

people in a referendum. The reason is, that it purports to juxtapose two equal rights (the life of the Mother and the life of the Child), supposedly in conflict, and therefore, catches the uninformed in an apparent quandary. Its appeal is based on its seeming to be framed in terms of the respect for and protection of human life, which is almost universally agreed. Clearly the government in office in 1992 sought to capitalise on this perception by going so far as to call its proposal on the so-called "substantive issue" the Right to Life Amendment.

The Committee does not need reminding that the proposal was roundly defeated at the ballot and that the wording then proposed, is, as the Green Paper suggests, probably the only one which achieves the aim sought under this heading. It was not defeated because of some technical difficulty with the terms that might easily be corrected. It was not defeated (as the Committee can at least admit to itself privately) because the restriction on the X decision was rejected. It was defeated because it was founded on a false appreciation of the facts; it would have proved dangerous in practice and was opposed by every Pro-Life organisation of any standing. If presented again it will be defeated again.

The perceived conflict between the right-to-life of the Mother and her Child is of purely legalistic invention and exists only in the propaganda for legalised abortion. Even here, the physical argument is rarely cited since they are aware that the ruling of the Medical Council is far too well-known by the general public to have any plausibility. That certain doctors have been irresponsible enough to lend the weight of their status to what is essentially a political opinion is to be regretted, and insofar as it has mislead some and frightened others it is to be positively condemned. Their unfounded and unsupported statements should not, however, be allowed to hold the law of the State in thrall.

Stating international examples of instances where abortion was and is employed for so-called therapeutic purposes is worse than useless, since in countries where abortion-on-demand is the norm, the motivation to seek and find alternative treatments is not present. Indeed, if medical practitioners in these countries are unable to employ such alternatives they present us with an example of the general value of the Pro-Life ethic as expressed in medical care, since the care of Mother and Child is clearly proven as superior in this country because abortion is not available. There is no evidence whatever that life

threatening situations for Irish women are being dealt with in English clinics and it is specious to cite the possibility.

It has been claimed, however, that since abortion is never necessary to save the life of the Mother, that the Pro-Life movement should not oppose the legalisation of abortion when it is provided only to save her life. In practice, the argument contends that no actual abortions would take place. This would certainly be true if it were not for the malicious and dishonest character of individuals involved in the abortion industry.

However, the rule that would almost certainly have been employed if the amendment had been passed in 1992 is that of Rex vs. Bourne (in fact referred to by Mr. Justice Egan in X). Under this ruling, it is not required that a doctor performing an abortion prove that it was performed to save the life of the Mother, rather it is for the prosecution to prove that he did not. The test is that the abortion was carried out in "good faith". To place unborn children in peril of their lives on the good faith of doctors whose own claim is an incompetence not shared by the vast majority of their profession is not acceptable. In any case, we might well refer here to international example as to the type of doctors who are willing to perform abortions.

We cannot expect the law to use any other rule then of that the "good faith" of individuals. If it did this proposed amendment would not be presented at all given that the Working Group would have accepted the competent body's ruling on the matter i.e. the Medical Council and proposed a complete prohibition on abortion.

At this point we are compelled to raise the most vehement objection to the suggestion that this amendment might be proposed again with the threat of a more severe abortion regime if it is rejected by the people. It is not appropriate for any government body, howsoever formed, nor indeed for the government itself, to threaten and coerce the Irish people into a course of action which is at profound variance with their conscience.

As to the option itself, it is rejected by Youth Defence as unsafe.

OPTION (I)

ABSOLUTE CONSTITUTIONAL BAN ON ABORTION

The Green Paper is very clear in its appreciation of the fact that this is the option favoured by all but a minuscule number of submissions made to it. There seems little doubt that the same will be the case for the White Paper. You will undoubtedly also be aware of the many opinion polls conducted over successive years which prove conclusively that this ratio of submissions is in line with the feelings of the nation at-large. In any case, as incumbent Oireactais members you cannot fail but to be aware of the attitudes of your constituents on this point.

In the consequence, this is the only option which if referred to the people has the possibility of being enacted. We are not unaware of the problems associated with this, but are nonetheless confident, that, if the Committee recommends and the Dail accepts a properly worded Pro-Life referendum, then the campaigning have the wherewithal to explain it, argue for it and have it endorsed by the same overwhelming majority which supports the principle.

It is particularly unfortunate then that the Green Paper should set out to so comprehensively repudiate this option. It is chosen to make much of the distinction between “direct” and “indirect” abortion and the contention that these terms create legal difficulties. We can only agree. These terms do have a common usage and as such are widely understood by those engaged on both sides of the abortion debate. Youth Defence have always opposed their use even in this context, regarding them to be highly misleading to those not intimately familiar with the issues involved and obviously quite useless in formulating a Constitutional amendment. It is not, however, proposed that an amendment would be framed using these words, and it is somewhat disingenuous to reject the concept of a Constitutional ban on abortion based on the notion that these words may be imprecise.

Youth Defence proposes an amendment to Bunreact na hEireann which would read:

No law shall be enacted, nor shall any provision of the Constitution be interpreted to render induced abortion, or the procurement of induced abortion, lawful in the State.

The amendment would be inserted as Article 40.3,4 of the Constitution. It is not proposed to delete, amend, or modify Article 40.3,3 in any way. The sentiments expressed in that provision are entirely supported by Youth Defence, though the judgment in X has effected a skewing of their application.

We would be vehemently opposed to any attempt to delete the Eighth Amendment on two principle grounds. Firstly the right-to-life of the Mother is not a secondary thought for us but of paramount and absolutely equal concern with the protection of the unborn child. Since no conflict exists there seems no purpose in removing a perfectly valid provision. Moreover, we would be concerned in the context of the social questions arising form the abortion debate that the State would fulfill its duty to comprehensively "by its laws…defend and vindicate" the right-to-life. It is now universally agreed that this is an extensive obligation.

Secondly, any sensible reading of the Protocol 17 of the Treaty of Maastrict would recognise that it is only the original provision in its original wording that is afforded immunity of European law. While a conflict between European law and the additions concerning travel and information are highly improbable, it is nonetheless true that these additions cannot be covered, since, if they were, Ireland could put any provision it wished under the heading of Article 40.3,3 including the whole of the Constitution and render it immune to European law. This is clearly absurd and cannot be the case.

Article 40.3,4 as envisaged by Youth Defence would compel the Supreme Court to re-interpret the preceding subsection in light of a absolute prohibition on abortion while not amending the subsection as such. In point of fact, we are adding a clarifying subsection which does not change the original intention and meaning of the Eighth Amendment, but rather returns it to fitness for purpose. Since the immunity applies to this original wording, the immunity extends to its meaning. It surprises us that this possibility was not considered either in 1992 or in the Green Papers treatment of the potential effects of Protocol 17.

Altogether it is unfortunate that the Working Group, in seeking to denigrate its own first option, avoided dealing specifically with any wording as such. They make several references to the problems that might be associated with finding a suitable wording yet fail to address any of the examples which were provided by the various organisations. In the consequence, their treatment of the option

of a Constitutional ban is extremely vague and not of much salience to this Committee. In light of the fact that this option comprised almost all of its public submissions the Working Group was seriously remiss in not dealing more extensively with it.

Nonetheless, with those reservations concerning the manner in which it is addressed in the Green Paper noted, Youth Defence strongly recommends the first option as the singular morally just and popularly acceptable choice for the Committees consideration.

CONCLUSION

Youth Defence are acutely aware that there exists for the Committee a great temptation to base its recommendation concerning abortion on short-term political considerations, such as the calculation of numbers in the current Oireactais. You may also have the inclination to pay excessive attention to the kind of media coverage that the recommendation may receive. There is, further, the tendency to found the decision on the precedent of laws in other jurisdictions, to be like everyone else. While these things are understandable pressures, they cannot, however, be acceptable ones.

It is not possible to stress too strongly that the act of abortion is a crime so heinous as to beggar belief, and yet, believe it we must because it happens every day, legally sanctioned by otherwise civilised countries around the world. We could elaborate at length on the damage it is doing to those countries by spreading the culture of disposable humanity and violent problem solving throughout their societies. This however is sociological and vague. Abortion, on the other hand, is very personal, unique even, in the serious violence it is committing against the women who suffer it and the children who are butchered by it. It is always really about one woman and one baby, no matter how many times that is multiplied. Our own Gaelic language is not circumspect or evasive on what is involved, it has no words to describe it clinically cleansed of its enormity; it is ginmhilleadh.

The responsibility the Committee bears is similarly personal and unique. For in the end it comes down to this: when a woman becomes pregnant whatever the circumstances, she becomes a mother to a child, which became a child at the very moment of conception. And the question before us is whether we are willing to walk down that road to the death culture, whether we are willing for the sake of some false notion of freedom, or just because it is easier, to say to these women in crisis pregnancy, that it is your choice and therefore your problem, that we are willing to let loose the madness of abortion which reaches into the womb to tear limb-from-limb a living baby. Whether in an attempt to crush conservatism or Catholicism the Liberal mind has become so warped as to permit crushing the skull of a child with the fiendish blessing of corrupted law. It is as simple as that. It is not as easy as that, as there is much more to be

done than just passing a Constitutional amendment to restore the respect for life and the dignity of the human person, but it is that simple, because, somewhere, a beginning must be made.

It is not possible to adopt the pro-choice position here, as if somehow by saying that in leaving it to individual women to bear the burden and consequences of the decision we are thereby cleansed of responsibility as a society. The law is necessarily a statement of who we are as a people and what we believe as a nation. Legalised abortion says we are cowards, unable to bear the responsibilities of freedom without descending to barbarity. Legalised abortion says that as a nation we believe that those who have no power have no rights.

The position we have taken is straight forward and, whatever the media may say, without extremism. Youth Defence wants our children protected, our women safe, and the soul and conscience of the nation preserved, that we may stand before the world not as a perfect people but at least as a people determined not to do the worst thing because it is by way of the path of least resistance. We are not submitting a document for your consideration so much as submitting the fragility of life for your decision.

Can your conscience bear the blood of the innoccents?

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FROM

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Prepared and submitted by Youth Defence for submission to the Government White Paper on Abortion on on 29th November 1999

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