

## **Oireachtas Committee on the Eighth amendment of the Constitution**

### **Opening Statement to the Joint Oireachtas Committee**

**by Professor William Binchy**

I thank the members of the Committee for the invitation to discuss with the Committee the human rights issues arising from the recommendations of the Citizens' Assembly. It is an honour to be given the opportunity to meet you.

#### ***The meaning of human rights***

It may be useful to identify at the outset my understanding of the term "human rights". I consider that it embraces a core value, namely, that of the inherent and equal worth of every human being. Human beings have human rights, not because they are given by legislators or courts, but by reason of their humanity. They do not depend on physical or economic power, on membership of any particular ethnic group, on age or intellectual capacity. A tiny child who has just been born is totally dependent on others and, naturally, lacks many of the abilities that adults have, yet the child is a human being with rights by virtue of her humanity. A child before birth is no less a human being, but simply a human being at an earlier stage on life's journey.

#### ***The effect of the Citizens' Assembly recommendations***

The effect of the Citizens' Assembly's recommendations would be to deny to children before birth the right to life. It would become lawful to take the life of a child "on request [no restriction as to reasons]" and where the child has a "significant foetal anomaly".

#### ***Abortion on demand***

Let us look at the first of these grounds. It is truly abortion on demand: the fate of the unborn child is no more secure if we use the sanitised language of the right to choose. If human rights are to have any meaning, one human being should not be entitled to choose to end the life of another, innocent and defenceless, human being. The idea that our law should authorise the taking of a child's life with "no restriction as to reasons" is, frankly, abhorrent to any civilised society.

#### ***The "right to choose" philosophy***

It appears that the Citizens' Assembly has fully embraced the "right to choose" philosophy. It is striking how rare it is to read an attempted justification for "the right to choose". Even the phrase itself is generally left incomplete. Yet, if we complete it, using non-emotive language, it is the right to take the life of another

human being on the basis of the supremacy of choice. Our society has been founded on the value that no one has the right to choose to hurt, let alone kill, another innocent human being. The right to take the life of another, with "no restriction as to reasons", needs explanation and justification.

### ***Children with disabilities***

Down syndrome children with disabilities are entitled to the protection and support of all of us. A child with Down syndrome or spina bifida, it scarcely needs to be said, has a right to life, along with every other child. The United Nations Convention on the Rights of Persons with Disabilities provides in Article 10 that "States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others." Terminating the life of a disabled child because of the child's disability is not consistent with respect for the child's equal right to life.

### ***The international human rights treaties***

The international human rights treaties which Ireland has ratified do not provide for a right to abortion. Had they done so, Ireland would not have ratified them as this would conflict with the Irish Constitution. It is important in this regard to note that such a conflict is not attributable to the Eighth Amendment: the Constitution as originally promulgated was intended to protect the lives of unborn children.

### ***The role of the monitoring committees***

The monitoring committees of the international treaties are not judges or even, necessarily, lawyers. Their interventions do not change the meaning of the treaties. Many of the members of these Committees are earnest supporters of the "right to choose" philosophy. The sincerity of their radical views is not in question but that is no reason why Ireland has to change its Constitution to get it in line with these views. To do so would contradict the core value underlying human rights, which recognises the inherent and equal worth of every human being.

### ***The Human Rights Commission's proposals***

As a former Human Rights Commissioner for two terms extending over a decade, I have to say that it is a sad day when the Commission now proposes a regime of abortion on demand. The Commission does not endorse that term for its recommendations but this is their substance. The Commission proposes legalising access to abortion based on "wellbeing" or "socio economic or family circumstances". It goes on to propose a process that "avoids to the greatest

extent possible onerous grounds-based certification procedures”. If we stay in the real world, we have to conclude that these proposals, if implemented, would involve abortion with little or no restrictions in practice.

Throughout its Policy Document, the Commission never addresses the entitlement of children before birth to be protected from having their lives ended. It offers no reasons why such a profound discrimination against them should be proposed. Alarming, it presents no objections from a human rights perspective to late term abortions.

### ***Some reflections based on personal experience***

I hope that the Committee will forgive me for ending my opening remarks with some reflections based on personal experience. I have spent many years working professionally in law reform and as a Human Rights Commissioner. I was involved in many changes designed to improve the protection of women and children: the introduction of barring orders, the protection of the family home, strengthening entitlements to maintenance, and the abolition of the status of illegitimacy, for example. I argued, unsuccessfully, against the constitutional amendment restricting the rights of children to citizenship. Central to the reforms which I have advocated are the values of equality and inherent dignity. The international pressure for abortion, far from advancing human rights, contradicts their core value of respect for the dignity and equal inherent worth of every human being.

I thank the Committee for having listened to these opening remarks and I look forward to the substantive discussion.