DÁIL ÉIREANN

AN COMHCHOISTE UM SHLÁINTE AGUS LEANAÍ

JOINT COMMITTEE ON HEALTH AND CHILDREN

Déardaoin, 10 Eanáir 2013

Thursday, 10 January 2013

The Joint Committee met at 9.30 a.m.

MEMBERS PRESENT:

Deputy Catherine Byrne,	Senator Colm Burke,
Deputy Ciara Conway,	Senator John Crown,
Deputy Regina Doherty,	Senator Imelda Henry,
Deputy Robert Dowds,	Senator Marc MacSharry,
Deputy Peter Fitzpatrick,	Senator Jillian van Turnhout.
Deputy Seamus Healy,	
Deputy Billy Kelleher,	
Deputy Mattie McGrath,	
Deputy Eamonn Maloney,	
Deputy Denis Naughten,	
Deputy Caoimhghín Ó Caoláin,	
Deputy Mary Mitchell O'Connor,	

In attendance: Deputies Pat Breen, Eric Byrne, Michael Conaghan, Marcella Corcoran Kennedy, Michael Creed, Pat Deering, Timmy Dooley, Bernard J. Durkan, Frank Feighan, Terence Flanagan, Noel Grealish, Joe Higgins, Heather Humphreys, Paul Kehoe, James Kelly, Anthony Lawlor, Michael McCarthy, Seán Ó Fearghaíl, Aodhán Ó Ríordáin, Kieran O'Donnell, John O'Mahony, John Paul Phelan, Shane Ross and Billy Timmins, and Senators Ivana Bacik, Sean D. Barrett, Paul Bradford, Terry Brennan, Paul Coghlan, Martin Conway, Fidelma Healy Eames, Rónán Mullen, Michael Mullins, Marie-Louise O'Donnell, Susan O'Keeffe, Kathryn Reilly, Jim Walsh and Mary M. White.

DEPUTY JERRY BUTTIMER IN THE CHAIR.

Implementation of Government Decision Following Expert Group Report into Matters Relating to A, B and C *v.* Ireland

Representatives of Churches and Religious and Non-religious Groups

Chairman: Before beginning proceedings, for the information of members I note the joint committee has received e-mails from Dr. John Monaghan, Portiuncula Hospital, Ballinasloe, and Dr. James Clinch, Dublin, expressing their concerns regarding the hearings during the week. The e-mails arrived at 8.41 p.m. and 10.24 p.m. last night. The clerk spoke to Dr. Clinch this morning and he is satisfied that the e-mail he submitted to the joint committee will be included in the written report to the Government. As for Dr. Monaghan, the clerk intends to make contact with him this morning with a view to discussing his e-mail. Moreover, if members are agreeable, we will discuss it as a committee in our regular meeting next Thursday. Is that agreed? Agreed.

I welcome everyone to this public session of the joint committee. As always, I remind members, witnesses and those in the Visitors Gallery to ensure their mobile telephones are switched off for the duration of the meeting as they interfere with the broadcasting of proceedings. You are all welcome to this eighth session in a series of hearings conducted over a three-day period by the joint committee to discuss the implementation of the Government decision following the recent publication of the expert group report into matters relating to the cases of A, B and C *v.* Ireland. On the first day of our hearings, we discussed medical issues and yesterday we heard legal argument and legal opinion. The information we have received has been beneficial in our deliberations. I will take this opportunity to thank all the witnesses to date for their thoughtful and considerate submissions. I also thank members of the joint committee and Members of the Oireachtas for their sensitive handling of the matter with which we have engaged over the past three days. Such measured engagement has been highly positive and has ensured that our discussion has been constructive and informative. As we commence the final day of hearings, I ask that we all continue to engage in a manner that is respectful, tolerant and understanding, as was the case over the first two days and for which I thank everyone.

At the commencement of today's final sessions of the joint committee's three-day hearings, I will set out again the background and intended role these hearings are playing in this important discourse. The purpose of the meeting is to discuss the implementation of the Government decision following the recent publication of the expert group report into matters relating to A, B and C *v.* Ireland by way of legislation and regulation within the parameters of our current constitutional provisions. The Government has stated that its aim is to ensure clarity and legal certainty in the process for determination of whether a termination of pregnancy is permissible in cases where there is a real and substantial risk to the life, as opposed to the health, of a woman as a result of a pregnancy. In doing so we must ensure that we take full account of Article 40.3.3° of the Constitution. Members have elicited much information from medical and legal experts over the past two days and today, we have an opportunity to build on this detail and to hear of other issues which should be considered when preparing the heads of the Bill on foot of the Government decision. In today's first session, we will hear from representatives of the religious groups and churches, as well an atheist organisation. This will be followed by two sessions in which we will hear from advocacy groups. I welcome our representatives this

morning and if I may, I will single out Fr. Timothy Bartlett, who was a former classmate of mine in Maynooth.

Before we commence, I remind witnesses of the position regarding privilege. Witnesses are protected by absolute privilege in respect of the evidence they are to give to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to so do, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, you should not criticise or make charges against a person or persons or an entity by name or in such a way as to make him, her or it identifiable. Members are reminded of the long-standing parliamentary practice or ruling of the Chair to the effect that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable.

I now invite Bishop Christopher Jones from the diocese of Elphin to make his opening remarks. Each group has seven minutes in which to make its presentation.

Reverend Christopher Jones: I thank the esteemed members of this hearing for their invitation to be here this morning. I am here on behalf of the Irish Catholic Bishops Conference and am joined by Fr. Timothy Bartlett from the conference secretariat who, as an adviser on this matter, will be happy to answer questions. We welcome this opportunity to engage with members of the joint committee. We also welcome the calm and dignified manner in which the discussions have been conducted by the joint committee in recent days. With you and with others, we want to develop a society that is truly worthy of the dignity of every person, a society in which all are equally cherished and respected. As public representatives, you carry a heavy responsibility. In making this presentation to you this morning, I am thinking in particular of the many women in our parishes across the country who are deeply concerned about the decision to legislate for abortion. We hope you will take account of these concerns in your decisions over the coming weeks and months. We share your concern to ensure that any young girl or woman who finds herself in crisis pregnancy receives all the love, care and support she needs to cope with that situation in a life-giving way. Cura, the crisis pregnancy agency of the Catholic Church in Ireland, is dedicated to providing compassionate and expert support to any woman who finds herself in this situation. Compassion, understanding and respect should be central to any discussion about responding to a situation of crisis or difficult pregnancy.

As a church, we also want to see mothers and their unborn children receive all the medical care and life-saving treatment they need during pregnancy. There is nothing in current Irish law, in current medical guidelines or in Catholic ethics that prevents such treatment from being given. The doctors, nurses and midwives in our hospitals show an extraordinary concern for the life and well-being of mothers and their unborn children during pregnancies. These medical professionals deserve our deepest appreciation and respect. In Ireland, we have one of the lowest rates of maternal mortality in the world during pregnancy. This is something of which we should be proud of as a nation. It is something we should do all in our power to cherish and protect. Any suggestion that Ireland is an unsafe place for pregnant mothers because we do not have abortion is a complete distortion of the truth. It also is gravely unjust to the doctors, nurses and midwives in our hospitals who have achieved such internationally celebrated standards of maternity care. We believe these high standards of maternity care have been influenced in no small part by the recognition in Article 40.3.3° of Bunreacht na hÉireann that a mother and her unborn child have an equal right to life. This coincides with our belief as a church, based on

human reason and affirmed by sacred scripture, that the life of a mother and her unborn baby are both sacred.

The Catholic Church has never taught that the life of the child in the womb should be preferred to that of the mother or the life of the mother to that of the child. Moreover, there clearly is considerable confusion about the terminology being used in the discussion about medical intervention to save the life of a mother. The Catholic Church recognises a vital moral distinction between medical intervention to save the life of the mother and abortion. Abortion, understood as the direct and intentional killing of an unborn child in the womb, is never morally permissible. This is because directly and intentionally taking the life of any innocent person is never morally acceptable. This is different from medical treatment to save the life of the mother where there is no other option or where the intervention does not directly and intentionally seek to end the life of the unborn baby. Every effort is made in this situation to preserve the life of both mother and baby throughout. This position, which is ethically sound, represents best practice in Irish hospitals today.

However, legislating for the X case removes the obligation to make every effort at all times to preserve the life of both mother and unborn baby. It allows for abortion, for the direct and intentional killing of the baby in the womb. It is not necessary to legislate for the X case to ensure women in Ireland receive all the life-saving treatment they need during pregnancy. It is not necessary to satisfy the European Court of Human Rights. There is another way. Other options are available to the Government that do not involve legislating for abortion. They include the option of appropriate guidelines which continue to exclude the direct and intentional killing of the unborn, or a referendum to overcome the X case judgment. We believe both of these options should be fully explored by the Oireachtas.

As a bishops' conference, we have always held, with many others, that the judgment of the Supreme Court in the X case is not a basis on which to move forward on this critical issue. In that judgment the court unilaterally overturned the pro-life intention and the will of the people in the 1983 referendum. It heard no psychiatric evidence. It believed abortion was an answer to suicidal ideation, whereas current research indicates that suicidal ideation rarely relates to a single cause and that abortion can lead to suicidal ideation and mental health difficulties. The position it took is also morally unacceptable. One cannot morally equate the possible but preventable death of one person with the deliberate and intentional destruction of the life of a different, although totally innocent, person. How would you or I respond to someone who is suicidal in any other situation? Surely our concern would be to ensure they received all the personal, professional and medical support they needed. Surely it would be to protect them from harming themselves and to help them to come to a long-term, life-affirming approach to their difficult situation. It is our view that giving sufficient professional support and care should be the priority in response to suicidal ideation in pregnancy. Taking the life of another innocent person with absolutely no guarantee that it will remove suicidal thoughts and the real possibility that it may make the situation worse can never be regarded as a humane or morally appropriate response.

The X case judgment potentially permits abortion up to birth. In addition, assurances that legislation will limit abortion to very specific circumstances are unreliable. Any such limitation will inevitably become subject to challenge in the courts. No matter what way legislation is approached, the moral and legislative difficulties posed by the X case judgment can only be addressed definitively by a return to the people in a referendum. In the meantime, we should be mindful of our excellent system of care for women and unborn children in our hospitals.

Chairman: Thank you, Dr. Jones. I welcome the Most Rev. Dr. Michael Jackson, Archbishop of Dublin, on behalf of the Church of Ireland.

Most Reverend Dr. Michael Jackson: Mr. Samuel Harper and I wish to thank the joint committee for the invitation to address it today. This presentation reflects our personal views, but it is also based on positions the Church of Ireland has taken in response to previous Oireachtas and Government requests for a Church of Ireland input in this difficult and sensitive area.

The position of the Church of Ireland on abortion is summarised in an addendum to the paper we submitted to the joint committee earlier this week. We recognise, however, that the judgment in the A, B, C *v.* Ireland case and the decision of the Government to progress the matter through a combination of legislation and regulations has moved the issue on. Thus, we will confine most of our presentation to the issues raised by the expert group report. Suffice it to say the Church of Ireland opposes abortion but recognises that there are exceptional cases of strict and undeniable medical necessity where it is and should be an option. There are a wide variety of sincerely held and conscientiously undertaken views within the Church of Ireland as to what constitute such exceptional cases. However, there would be agreement that they include cases where the continuation of the pregnancy poses a risk to the life of the mother.

In the X case of 1992 the Supreme Court held that an abortion was constitutionally permissible under Article 40.3.3o in circumstances where the continuation of the pregnancy constituted a "real and substantial risk" to the life, as distinct from the health, of the mother and the risk can only be averted by the termination of a pregnancy. The circumstances of the case made clear that this included a credible risk of suicide. The Church of Ireland welcomed the judgment at the time as the wording "real and substantial risk to the life of the mother" was very similar to the "strict and undeniable medical necessity" criterion the church has generally held to be appropriate. However, the legal situation has not been clarified and statutory provisions, particularly sections 58 and 59 of the Offences Against the Person Act 1861, remain in effect and provide for severe criminal sanctions both for women and those who assist abortion.

In the context of the Church of Ireland's previous comments on the issue, we agree that the position in the State is very unclear and that this is unsatisfactory and unfair to pregnant women and medical professionals who deserve to be able to make critical, clinical decisions in a secure and well regulated legal and medical framework. We, therefore, strongly welcome the decision by the Government to seek to provide clarity on the issue.

Introducing the principles behind its paper, the expert group said the following:

> There is an existing constitutional right, as identified and explained in the X case judgment of the Supreme Court. The State is entitled and, indeed, obliged to regulate and monitor the exercise of that right so as to ensure that the general constitutional prohibition on abortion is maintained. However, the measures that are introduced to give effect to this constitutional right should not act as obstacles to any woman who is legitimately entitled to seek a termination on lawful grounds.

We agree with this general approach. The expert group went on to highlight the sensitive issue of what should happen in the event that a foetus was viable, or potentially viable, but the continuation of the pregnancy posed a "real and substantial risk" to the life of the mother. This highlights the need for an effective decision-making procedure.

Chapter 6 of the expert group report outlines the tests to be applied in the light of the Supreme Court decision in the X case. This should include the question of whether it is practi-

cable to preserve the life of the unborn in the process of terminating the pregnancy without compromising the right to life of the woman. The Church of Ireland submission in 1998 to the interdepartmental working group on abortion made clear the church's position on the right to life of the unborn. We, therefore, agree with the approach outlined and the requirement that the diagnosis needs to be made expeditiously and should be formally notified to the woman. Such a device needs the protection of legislation as Medical Council guidelines on their own will not necessarily have this effect.

The expert group also raised the issue of whether there should be special provision for the rare occasions where the risk to a woman's life was real, substantial and imminent. Our view is that there should be special provision for such circumstances in the light of the provisions of the 1861 Act which make the termination of pregnancy subject to severe criminal sanction. We do not consider it is appropriate for a medical professional faced with an emergency, where a woman's life is in danger, to be constrained in giving necessary treatment in good faith by the risk of criminal conviction.

Turning to chapter 7 and the options for implementation, as a group, we welcome the Government's decision to seek to implement by means of legislation and regulations, which is in keeping with the statement made by the church in 1998. This approach allows for easier alteration as developments in medical science change in the context of decision making.

I want to quote from a significant women's group within the Church of Ireland because I am conscious that we have two men representing the total church. This is from the Mother's Union and my final comment:

> For the moment we must continue to keep the lines of communication open, listen - really listen - as well as talk, inform as well as undertake to be informed as we can be from as many different sources and viewpoints as possible, trust in our medical and trained professionals, and try and pick our way through the maze, whilst at the same time recognising that one size does not necessarily fit all, and that any decisions and way forward may have to be regularly reviewed as our world continues to grow and evolve around us.

Thank you very much, Chairman.

Chairman: Thank you, Dr. Jackson. Our next speaker is Ms Heidi Good from the Methodist Church in Ireland. She is very welcome.

Ms Heidi Good: On behalf of the Methodist Church, I thank the Chairman and other esteemed Members of the Oireachtas for giving me this opportunity to share with the joint committee our views on abortion and hopes for the upcoming legislation. We recognise this is a difficult, complex and contentious issue with various shades of opinion. Our submission to the committee strongly states abortion on demand is wrong. I want to commence this morning by reiterating that view. We do not support abortion on demand, nor for economic or social reasons.

The Methodist Church, after a considerable time spent in consultation, takes the view that termination should be available to a mother in four circumstances. First, where the mother's life is at risk; second, where there is risk of grave risk of serious injury to her physical or mental health; third, in cases of gross abnormality where it is incapable of survival; finally, in cases of rape or incest.

In this complex and diverse issue, we strongly urge the Oireachtas to introduce legislation following on from the Supreme Court judgment in the X case. This is a difficult call to make. We recognise that the foetus is far more than an appendage of the mother's body and that, as it goes through the developing stages of gestation, it should progressively be accorded rights culminating with full respect as an individual on birth. However, the mother is an individual accorded with all the rights that her fellow men and women in this State are accorded. She has the right to life and the right to life-saving procedures. We believe that includes the right to a termination when her life is at risk.

Then there is the question of her mental health. Among the varied physical medical reasons which may cause grave complications for a mother and necessitate a termination, we believe the mental welfare of the mother must be taken into consideration and included in the forthcoming legislation. If her medical team deem that suicide is a real concern, then we believe it can be treated. However, if after appropriate and thorough psychiatric assessment suicide remains a real possibility, we believe they must be allowed to consider termination as a part of that treatment.

No law should attempt to legislate for a specific form of morality, church or faith but rather set the minimum standards for the social good. The rule of law should allow maximum individual freedom and only limit that freedom where there is a clear and unmistakable social necessity. In essence, we believe the Legislature should legislate for the public good and not to suit us or any particular church or faith. We strongly urge the Oireachtas to legislate to allow for the medical profession to make those difficult but life-saving decisions when a mother's life is in danger without fear of repercussions and to give peace of mind to women in Ireland that they can be assured that their medical team can take all necessary steps to save her life.

We oppose abortion on demand but we believe the Christian gospel promotes a just, loving and caring society with emphasis on the dignity and worth of each individual. Faced with the difficult choices to be made by the Oireachtas, we believe legislating for the four categories I referred to earlier is the best approach.

Dr. Roy Patton: I thank the committee for the privilege of attending today's meeting on behalf of the Presbyterian Church in Ireland. Our contribution wants to address the law and the ethical considerations on any further decisions on abortion. Abortion has been practised for thousands of years but the three great faiths - Christianity, Islam and the Jewish faith - have always upheld the principle of the sanctity of human life. This has been the very bedrock of our civilisation. It is reflected in our Constitution and law, specifically in the Offences against the Person Act 1861.

We believe there are three general ethical principles which ought to influence any government action. The first responsibility of government is the protection of human life, care for the weak and vulnerable. That includes the unborn child. Second, we believe it is not necessary to engage in metaphysical or theological debate on the status of the embryo and personhood. The embryo should be treated as a person. Third, in a healthy society, the strong make sacrifices for the weak. So, we are of a very strong opinion that, in demonstrating compassion and support for women, the State, the churches and society have clear responsibilities in this area.

Those basic ethical principles lead us as a church to commending to the committee a strong pro-life position. We are opposed to any question or suggestion of abortion on demand. Accordingly, we have resisted any extension of English legislation into Northern Ireland.

With regard to the expert report and the exceptional circumstances of a threat to the life a mother, we believe there are a number of ethical factors at play. With the committee's permission, Dr. Morrow will speak on these factors.

Dr. Trevor Morrow: As the Moderator indicated, we as a church do not believe it is our responsibility to prescribe or even to advise the Oireachtas as to how to respond to the expert report as to whether it should follow guidelines, legislation or a constitutional amendment. We see rather our role as seeking to provide an ethical framework within which any future decisions might be made.

Already this morning we have heard what would be described as the classic *status quo* position within the State - that the medical profession must, in every circumstance, must choose what is right. That is the only option that it has so when it is confronted in those exceptional circumstances with the life of the child and the life of the mother, the medical profession will seek - as I hope it would - to preserve both lives. However, as one seeks to preserve the life of the mother, the life of the child perhaps will die in the process. It is a passive acceptance in choosing what is right. We recognise, however, that there are circumstances - and there will be in the future as the medical profession has already indicated - in which one is confronted in a broken messy world with two things that are wrong. As the medical profession has already indicated, one is confronted at times, in a broken, messy world, with two things that are wrong. It is wrong to allow a mother to die and it is wrong to take the life of a child, but in such circumstances, it may be necessary to choose what is least wrong - that is, the lesser evil. That will be particularly true when one is dealing with circumstances in which there is not an immediate and imminent threat to the life of the mother. That, we believe, is a foundational ethical principle that ought to be considered by the Oireachtas.

Chairman: I thank Dr. Morrow. I now welcome Dr. Ali Selim from the Islamic Cultural Centre of Ireland.

Dr. Ali Selim: I thank the Chairman and wish him, members and witnesses good morning.

Islam significantly values human life - established life and the life of the embryo. The Koran states clearly: "*Wala Taqtulunnafsa Al-Lati Haram Allah*", "Take not life which Allah has made sacred." This meaning is reiterated in another place in a way that should deter people even from thinking of killing as, on unlawful killing, Allah stated: "*Man Qatal Nafsan Bighairi Nafsin Fakaannama Qatalannasa Jamian*", "whosoever killeth human being for other than manslaughter or corruption in the earth, it shall be as if he had killed all mankind." The justice comes afterwards". "*Wa man Ahiaha Fakaannama Ahiannasa Jamiyan*", "whoso saveth the life of one, it shall be as if he had saved the life of all mankind."

The Koran warns people against considering abortion if they are not sure they can provide for a child. It states:

> Say: "Come, I will rehearse what Allah hath (really) prohibited you from": Join not anything as equal with Him; be good to your parents; kill not your children on a plea of want;- We provide sustenance for you and for them;- come not nigh to shameful deeds. Whether open or secret; take not life, which Allah hath made sacred, except by way of justice and law: thus doth He command you, that ye may learn wisdom."

Although maternal health care should strive to obtain the best possible outcome for both mother and baby, in the unlikely event that a group of competent and trustworthy physicians

confirms that the continuation of pregnancy jeopardises the mother's life, then abortion could be conducted as the last and only option to protect the mother's life. This permission is based on the principle of the lesser of the two evils. In this case, one is confronted with two forbidden things: either abort the unborn child or let a living woman die. Obviously, the latter is of greater importance than the former; therefore, abortion is allowed to save the mother. Abortion is regarded as a lesser evil in this case because the mother is the originator of the baby; the mother's life is well-established; the mother has family duties and responsibilities; the mother is part of an essential part of the family; and allowing the mother to die would also kill the baby in most cases.

Nevertheless, if the mother threatens to commit suicide, such a claim cannot be deemed as a ground for abortion. The experience of pregnancy and delivery is hard and could lead to depression. The Koran recognises this fact and promises greater reward for mothers in return. As Allah says:

> We have enjoined on man kindness to his parents: In pain did his mother bear him, and in pain did she give him birth. The carrying of the [child] to his weaning is [a period of] thirty months. At length, when he reaches the age of full strength and attains forty years, he says, "O my Lord! Grant me that I may be grateful for Thy favour which Thou has bestowed upon me, and upon both my parents, and that I may work righteousness such as Thou mayest approve; and be gracious to me in my issue. Truly have I turned to Thee and truly do I bow [to Thee] in Islam.

The Government should think of social and economic means to reduce suicide, but certainly not at the expense of others' lives. Otherwise, it would be saving one human being by killing another. Financial, psychological and physical assistance should be given to assist women who, while pregnant, find themselves in challenging situations. Society should be there to assist women in difficult situations.

Women who have been victims of rape deserve due sympathy and help, but a child conceived in this unfortunate situation still has the right to live. Of course, the continuity of such a pregnancy places a heavy burden on the mother which may drive her, similarly to many other economic and social scenarios, to think of terminating the pregnancy, but killing the foetus is not the right solution. In fact, it is a crime against this innocent human being. It is terminating the innocent's life, while the real perpetrators enjoy their lives.

Chairman: I want to point out to the committee that the representative of the Irish Jewish community, Rabbi Zalman Lent, is on his way. He was delayed and sends his apologies. We will take the presentation of the Atheist Ireland representative, Mr. Michael Nugent. He and Ms Jane Donnelly are very welcome.

Mr. Michael Nugent: We are here because the 1983 amendment to the Constitution has constrained our public ethics. We should not need three days of parliamentary hearings to discuss how a doctor in a hospital should save the life of a dying woman. That should be the absolute minimum rock-bottom ethical standard that we should automatically assume from our health system. A, B and C *v*. Ireland requires the Oireachtas to vindicate this right, but it does not require it to limit itself to only doing this. The committee should not ignore the suffering of pregnant women whose health is at risk, who are victims of rape or incest, or whose foetuses have a fatal abnormality. As well as its other work here, the committee should recommend removal of the 1983 constitutional amendment so that the Government can democratically decide, in the absence of such restraints, on public policies that are appropriate for the Ireland of 2012.

As atheists, we ask the committee to respect our human right to freedom of conscience. As atheists, we form our own individual ethical beliefs, including on issues such as abortion. However, there is one belief which unites us, which is that we do not get our morality from gods and therefore our laws should not be based on what other people believe the creator of the universe is telling them to impose on us. For example, Cardinal Brady has explicitly told the Members of the Oireachtas that, as legislators, they should remember that the right to life is conferred on us by the creator. The committee members should think about the enormity of that claim and the lack of evidence to support it, and its irrelevance to the committee's deliberations and their duties as legislators - as opposed to in their personal lives - because, even if one believes that there must be a creator, as many of the members do, there is no pathway from that belief to the taking of any particular specific ethical position on these issues. One cannot argue that the universe had a beginning and therefore it must have had a creator and therefore we cannot legislate for abortion. There is no relationship of cause and effect between those ideas. We do not get our morality from religion; we apply our own natural morality to religion.

What we, as Atheist Ireland, are asking the committee to do in its deliberations is to ensure that whatever laws the Oireachtas passes are based on human rights and compassion and on the application of reason to empirical evidence. We ask the Oireachtas to respect the idea that individual ethical decisions should be made on the basis of personal autonomy and individual conscience, with respect for the rights of others, and to respect the idea that individual ethical decisions on the issue of abortion and pregnancy should be made by pregnant women in consultation with their medical teams.

We also ask the Oireachtas to consider specific human rights issues with regard to the matters the committee is discussing. In Attorney General *v*. X and others, the court stated that the risk to life must be "real and substantial" but it need not be "inevitable or immediate". In A, B and C *v*. Ireland, the court stated that obtaining an abortion abroad constitutes a significant psychological burden on pregnant women. In A, B and C the court found that obtaining an abortion abroad constitutes a significant psychological burden on pregnant women. In D, the Government stated it was an open question as to whether a pregnant woman with a fatal foetal abnormality has a right to an abortion. Ireland is obliged under various international human rights conventions to respect the equal right of women to health and physical and psychological integrity. The 1983 amendment is incompatible with our human rights obligations and it discriminates against women on the grounds of physical and mental health. The court has already ruled in the X case that a suicidal woman has a right to an abortion in Ireland.

Members have a duty to legislate to vindicate that right but I urge them not to pass a restrictive law which assumes pregnant women are lying. If they do that they run the risk that another personal tragedy will happen. A suicidal women who is denied an abortion may go on to commit suicide. This could be followed by public outrage and the law may finally be changed but it would be too late for that woman. It took a raped female child to establish the right to legal abortion in Ireland. It has taken the death of a miscarrying woman to bring us to these hearings. I ask Members to stop this unethical pattern of law making by response to personal tragedies and not to limit themselves to the minimal response to X, A, B and C, D and the report of the expert group. Please legislate comprehensively based on human rights and compassion. Respect the right of religious people to believe in their gods and to live their lives in accordance with their religious values without imposing these values on pregnant women who do not share them.

Chairman: I should point out that it has not taken the death of a miscarrying woman to

bring us here. Perhaps that was an incorrect statement. I propose that we hear from Rabbi Zalman Lent when he arrives. Is that agreed? Agreed. Members have 60 minutes to ask questions. I ask members to be brief and direct their questions to the relevant church person or member of Atheist Ireland.

Deputy Billy Kelleher: I welcome the witnesses. The submission from the Irish Catholic Bishops Conference states:

> the report of the expert group did not present the full range of options available to Government and the Oireachtas on this issue. We believe the option of a further constitutional referendum on this issue should not be ruled out.

What is the proposal underlying this statement? Is it to roll back on the X case to reaffirm Article 40.3.3° to the position prior to the Supreme Court's interpretation of it in that case? What is the position of the conference in regard to a constitutional referendum and what would be the intention of such an amendment? Given that we have already held two referendums on the substantive issue of suicide, and on both occasions the proposed amendments to the Constitution were rejected, we need clarity on what is being proposed.

On the broader issue of legislation, do the witnesses believe legislation defined by the narrow parameters of the X case is sufficient or should we go further in respect of fatal foetal abnormalities and mental health? What are the witnesses' views on the type of legislation we should develop, if they think legislation is needed? Do witnesses believe that the X case established the fundamental principle that a termination can be provided only in the event of a threat of suicide or to the life of the mother on health grounds?

Deputy Caoimhghín Ó Caoláin: I welcome the witnesses. We have made no proposal to overturn the constitutional protections for the unborn. Our role is not to make a decision but to facilitate the flow of information. Yesterday an eminent witness spoke about what he described as the discredited Supreme Court judgment and asserted that the process was flawed because no psychiatrist had been consulted. However, on Tuesday we were addressed by five of the most eminent consultant psychiatrists in Ireland, including the only three perinatal psychiatrists in the country. Although the law of the land by case law, as confirmed in the guidelines from the Medical Council, confirms the option for intervention in the event of the life of a woman being at risk due to suicidal intent, in the collective experience of these psychiatrists an intervention has never been undertaken in these circumstances. Why does Reverend Jones believe the Government's intention to progress what many view as confirmatory legislation will change that situation?

As Deputy Kelleher noted, the Irish Catholic Bishops Conference states in its submission: "We believe the option of a further constitutional referendum on this issue should not be ruled out." It was clear from Reverend Jones's oral contribution, however, that he would go further than ruling it out. I think he said he would commend such an option as reflecting the Catholic Church's view. I ask him to shed further light on that.

The limited time available to us unfortunately does not allow us to engage with each of the witnesses. I thank the Most Reverend Dr. Jackson for his contribution. The executive summary of his presentation specifically refers to the preservation of the life of the unborn without compromising the life of the woman at an advanced stage of pregnancy. He also notes that the women should be formally notified of a diagnosis. Is it correct to extrapolate that the women should not only be notified but also consulted in all of these positions?

Deputy Mattie McGrath: I welcome the witnesses and thank them for their enlightened contributions. I refer to the document from the Irish Catholic Bishops Conference, which states:

> The recent decision by Government to introduce legislation, with regulations, in line with the judgment of the Supreme Court in the X case has brought the future of this highly effective two-patient approach in to serious doubt. It is our view that this decision by the Government is medically unjustified, legally unnecessary and morally unsound.

Does the conference ask that we hold a referendum in this regard?

Deputy Ciara Conway: I thank all the speakers for their contribution to the debate this morning. We have seen in the past that theology has the capacity to evolve with increased knowledge. The Catholic Church, in particular, has made allowance for natural methods of family planning and Catholics are allowed to prevent life in this way. It takes a nuanced approach to the use of a condom or a woman taking a pill to prevent life. We can also take a nuanced approach on divorce versus annulment. However, a rose by any other name is still a rose. If women and men are truly equal in this country, why are women entitled to less medical care? Are Irish women somehow assumed to be more manipulative and somehow seen to be lying in regard to pretending to be suicidal when they so need the medical intervention and care? I would be very interested to know what people's approach is to that. We know that theology has evolved over very many years. Why do we now find ourselves not able to deal with the question in front of us?

With regard to the submission from the conference of bishops, the Supreme Court judgment was based on the presumption that abortion would be a helpful treatment for suicidal thoughts and feelings. As we heard yesterday from very eminent witnesses, the Supreme Court presented its judgment based on the case before it. I would like the witnesses to respond to that point in their submission.

Reverend Christopher Jones: The first question asked what we intend when we ask for a referendum to reverse the Supreme Court judgment in the X case. We just believe that Supreme Court judgment reversed totally the will of the Irish people. Some 76% of our people voted for Article 40.3.3° of the Constitution. Our wish would be, as one option, that a referendum would give the people a chance to re-establish what they originally wished for and intended. We were very surprised, indeed shocked, that the Supreme Court judgment in the X case-----

Chairman: Please speak into the microphone.

Reverend Christopher Jones: That is where we are coming from. We were very much upset and surprised by the ruling of the Supreme Court in its judgment. We feel it was unsound. We feel also that there was no psychiatrist available - an expert in that field, especially one dealing with teenagers - to give advice on the whole issue of suicide and mental health. For that reason, we feel any legislation that will be based on or introduced in light of that unsound judgment would not be sound. Therefore, our first option would be to have the medical guidelines enhanced so that doctors and nurses have no fear whatever in providing every single possible treatment that is available for the help of the mother whose life is at risk. We would welcome that.

What we regret very much, if we go down the road of legislation, is that it is inevitably the road to abortion. That will change our whole two-patient model. The life of the mother and the life of the unborn child will be no longer equal because we will be giving the right to someone

in certain situations to literally take the life of the unborn. That we cannot do. We believe totally in the equal right of mother and child.

In response to one of the statements made, I might add that we do not depend on religious reasons or scripture reasons for that. We believe that the mother and the unborn child have equal rights by virtue of their common humanity, which is accessible to human reason. Of course, we believe the Gospel enhances the whole dignity of the human person and our understanding of human life, but we do not depend on that, and we would never want to impose our understanding from the Gospel on any other religious group or on any atheist.

Fr. Timothy Bartlett: I thank the Chairman for his warm welcome. It strikes me, as a I listen to the various contributions this morning, that we work together very closely as churches and as faith communities. Rev. Dr. Michael Jackson and I have debated very honestly and openly in public fora about faith, the challenges to faith and so on. The thread that has been running through all of our contributions and which I think unites everybody in this room, is our shared desire for a compassionate, caring, humane and just society. It is always worth coming back to that.

What is at issue is how that can be best achieved in legislation in this particularly complex and sensitive area in medical practice. As Bishop Jones pointed out, we have to keep coming back to the fact that life-saving treatment for women in pregnancy is available at the moment, and the Catholic ethical position has no opposition to that.

However, to come back to the specific questions and to supplement some of the responses Bishop Jones has given, on the issue of the two previous referenda to overturn the inclusion of suicide, the Oireachtas all-party committee of 2000 looked at the 1992 referendum in terms of a response to the X case, and it acknowledged that the 1992 referendum was incredibly confused and that people on both sides of the argument voted to defeat the referendum. It was not a clear - to use the shorthand - pro-choice or pro-life result. Similarly, as we all know because it is an easier one, in the defeat of the 2002 referendum the margin was extremely tight and there was evidence that large numbers of pro-life people voted to defeat it as well.

Beyond all of that, I suggest there is a reason we hold our judges and courts, in particular the Supreme Court, in the highest esteem and we treat seriously and very gravely any judgment that they give. However, we do not have judges and lawyers running the country, or, indeed, framing legislation. That is the responsibility of the Members here, a responsibility that, as churches, we respect and seek to assist in terms of, as we have been invited to do, offering our views. In that regard, however, the Members here are free, as legislators, to consider the wider issues.

The Supreme Court looked only at the legal issue and evaluated the situation in terms of law. As Bishop Jones pointed out in his opening presentation, there are psychiatric developments that need to be now taken into account and there are moral issues, in particular the inability to equate the possible but not certain and preventable death of someone in suicide, as opposed to the certain death of a child. Our response to that is to ask, in the 21st century, what reflects a compassionate, humane and intelligent society. Is it not that we provide the best possible care and support to help someone to make a life-affirming decision?

Finally, for the record, in response to Deputy Conway, no one from the Catholic Church has ever said in any official role or responsibility, or in any statement, that we believe women will somehow try to mislead. We have never said that. The jeopardy arises from the experience

in other jurisdictions which are trying to legislate in this area in that there is a real danger of sincerely unintended consequences, as well as the difficulty of simply trying to limit legislation in the context of the breadth of the X case judgment. Any attempt to limit in principle could be challenged. That is why I would suggest trying to address the legitimate concern to ensure that doctors, for example, can act freely in the ethical way we have described and that they currently do - with the protection of guidelines, by the way, and they are not in jeopardy if they follow the guidelines. If greater reassurance is required in that regard, then-----

Chairman: Thank you, Fr. Bartlett.

Fr. Timothy Bartlett: -----trying to develop new legislation on the basis of X is like trying to build a new house on a condemned site or a problematic site.

Most Reverend Dr. Michael Jackson: I will first address the question of formal notification - I know it sounds rather cold and in the third person, but that is not what is intended. The formality of it is that it would be, as it were, structured in part of the system. The notification is more than information; it has to do with consultation.

In regard to the whole question which has been raised as to a referendum, I made it very clear in our presentation that our concern would be for legislation. I say that specifically because I bring us back to the distinction or, if not distinction, the suggestion I made with regard to the real and substantial risk to the life of the mother and strict and undeniable medical necessity. I believe that is where the legislation is needed.

If I can introduce a further point, I would like us to hold together the relationship between an emergency and a crisis. My understanding of a crisis is that it is a succession of decisions where one applies a protocol which underpins actions which are taken in an emergency situation. This is where we tie together the range of moral expressions and theological frameworks we have heard this morning with the medical and nursing delivery, the human responsibility and conscience, and the contributions faith groups and others who are not members of world faiths make to a democracy. These are the sorts of things I would like to say in response. Theology develops but so also does the understanding of embryology. We must be very careful that a number of things move forward organically. It is important in a democracy to keep these balls in the air.

Dr. Ali Selim: Abnormality could not be deemed a reason to carry out an abortion. The question would arise as to what level of abnormality was relevant or whether the child would be a burden on the family or society or experience a miserable life. There are many healthy, wealthy people who lead very miserable lives and end up committing suicide. Accusations that women would lie about suicide are not the basis for Muslim disagreement on legislation for abortion. However, there is a need to consider from a medical point of view the grounds on the basis of which threats to commit suicide should be taken into consideration. Many people who threaten to commit suicide do so on the basis of many factors. Is the answer to give someone what they say they want because they threaten to commit suicide? I think it will turn into an anarchy.

Ms Jane Donnelly: Women have equal human rights with men. We have the equal right to life and health and physical and psychological integrity. In some countries, of which Ireland is one, pregnant women do not have the equal right to health. They do not have the equal right to physical and psychological integrity. We want to see that changed.

Ms Heidi Good: I reiterate that we are very keen to have legislation for the X case, which we do not believe will open the door to abortion on demand. Irish people are far smarter than to let that come in. We cannot have the situation we have now continue. Doctors need security and clarity. Women need security, clarity and safety.

Dr. Trevor Morrow: On the Supreme Court decision in the X case and the use of potential suicide as a criterion, I am not convinced that a further referendum is needed. That is a personal view and not a decision of our church. Legislation may be necessary. The difficulty for medical professionals in making a judgment regarding a potential threat to the life of a mother through suicide is that the risk is extremely subjective. Previous meetings of the committee have already discussed the potential for abuse. It is a real factor at play. Therefore, we believe that while legislation may be necessary and a referendum may not, the consequences of enacting any provision to deal with the Supreme Court's decision must be considered very carefully.

Chairman: I welcome Rabbi Lent to the meeting and apologise for any confusion as to time. He may make his presentation now.

Rabbi Zalman Lent: I thank the committee for allowing me time to add the Jewish point of view to the discussion on this important and emotive issue. I am not a medical professional, I am a religious leader representing the Irish Jewish community guided by the strictures of Jewish law, which we call Halakha. I thank the committee for its efforts to bring clarity to these complex issues and for affording me the time to comment.

Judaism views every moment of life as being of supreme value. As such, the life of a newborn child and the life of an elderly patient on life support are of no less value than that of a healthy adult in the prime of life. While inherently valued, a foetus *in utero* is not deemed to have yet assumed an equal status of full life. It is an incredibly difficult and painful decision to have to terminate a pregnancy, but in certain cases Jewish law may permit a termination to take place. Where carrying the unborn to term would pose a danger and risk to the mother's life, the foetus may be considered to threaten the life of the mother, and to save her life, a termination could be recommended and permitted. Where there is a risk of mental health complications to the mother leading potentially to a threat to the mother's life, a termination may also be permitted. Any such risk would require to be assessed and verified by qualified mental health professionals in conjunction with a competent *Halakhic* Jewish law authority. In all cases, the decision to terminate a pregnancy would be a last resort after all other avenues to save both mother and child had been explored. In cases of rape or incest, where carrying to term could cause life-threatening mental health issues for the mother, the same criteria would apply and a termination may be permitted. In cases of foetal abnormality or deformity, the general consensus is that the foetus should be carried to full term with exceptions made where there is no chance of a viable life.

Chairman: I remind members that 11 of their number have indicated they want to speak. Members should be brief in asking a question and directing it to a particular church or the atheist organisation. If a question has already been asked, I ask members not to repeat it.

Deputy Eamonn Maloney: I will be brief. I have only one question. The issue of suicide by pregnant women has been a theme in our discussions over the last three days. It has been alluded to by one or two speakers this morning that we may not be happy to acknowledge the reality that in a thankfully small number of cases, a pregnant woman may feel her mental health is threatened. As legislators, we must take that into consideration, whether it is three cases or 300. It is sometimes argued that if legislators acknowledge the risk of suicide for some women,

it will open the floodgates. I do not agree with that. It is one of the most insensitive and insulting statements about Irish or any other women. Do the witnesses share that view?

Senator Imelda Henry: I welcome the witnesses, particularly Rev. Jones from my own diocese. I will ask him two questions. I listened to the master of the National Maternity Hospital, Holles Street, on Tuesday. She spoke very passionately about her job and her beliefs. She asked us to help all obstetricians in the country and to legislate to protect her in doing her job every day. She said she did not want to go to jail. What would the bishop say to any obstetrician in this country who feels that way and who is asking us to legislate to protect him or her?

I am quite surprised that the bishop feels we should have a referendum, to go back to the X case. Parents of a teenage daughter who has been raped and is pregnant and suicidal will have to make a decision about what they do. There is a difficulty with suicide as it is. Even with all the psychiatric help necessary, I know what my decision would be and what most parents would decide. I would like Reverend Jones to tell me what he would say to those parents.

Senator Colm Burke: I thank all those who have made a contribution here this morning. I am interested in the regulation and guidelines around this issue, as opposed to legislation. I have been involved in legal practice for over 25 years and identified a defect where regulation was in place without supporting legislation, a defect that subsequently cost the Department of Health and Children €485 million. We have heard a submission this morning proposing that there be regulation and guidelines. Under what legislation would those regulations and guidelines be brought in? Is it not true that if there is regulation only, which does not have supporting legislation, it is likely to be subjected to a constitutional challenge more quickly than legislation? Legislation is definite and decisive.

Article 40.3.3° clearly identifies that the State and its laws must, in so far as practicable, protect the life of the unborn. How can any legislation overrule that section?

Deputy Catherine Byrne: I thank all the witnesses for coming here this morning. The past three days have been the most enlightening part of my public life. I have read all of the submissions. I was really taken aback by Bishop Jones's submission and found some of its disturbing language offensive. I was glad to hear him say in his opening statement that he spoke on behalf of the mothers in the Catholic Church. I am one of those. Over the past three days I have thought more about my role as a mother than anything else, even as a legislator. I have thought about my four beautiful daughters and my wonderful handsome son who occasionally come to me or my husband for guidance or to talk about different issues. I have always believed, as my religion taught me, that there is a loving, compassionate God and that religion is based on love. My contribution to the committee will be based on what I have heard already today, what I will hear this evening and on my belief in a loving God.

Dr. Jackson is right. No abortion is desirable. In some cases it is necessary. I do not believe any member of this committee or any Member of the Oireachtas believes that widespread abortion will be introduced. Do the witnesses here this morning believe that we as legislators will use prudential judgment in forming legislation from these hearings?

Deputy Denis Naughten: I welcome all the witnesses and in particular Dr. Jones. I have two brief questions for him. The first concerns the current Medical Council guidelines. He made the point that those guidelines should be enhanced rather than introduce primary legislation. My understanding is that the past three editions of those guidelines have extended the circumstances for termination. On that basis, would we not then be facilitating a further extension

of the grounds for termination in the future? Dr. Jones also makes the point that there should be a referendum to overturn the suicide aspect of the X case judgment. Dr. Jones can correct me if I am wrong but if that is the case should there also be a referendum to deal with the interpretation that the legal experts gave us yesterday, that Article 40.3.3°, based on the Roche case, allows for the termination of pregnancy where there is a fatal foetal abnormality?

Deputy Robert Dowds: Two days ago we heard medical experts, the masters of several maternity hospitals, who urged us to legislate because of the difficulties in which they operate. Whatever legislation we produce will be restricted by the 1983 amendment to the Constitution. Will the hierarchy of the Catholic Church in particular consider this issue in a fuller way than it has done so to date? Life is not always as straightforward as we would like it to be and we as legislators have a duty to act and to sort out the difficult situation in which we find ourselves. I know that over time the position of the Catholic Church on life has changed. I understand that Aquinas, who I think is regarded as the greatest Catholic theologian, had a somewhat different view from that being expressed by the officialdom of the church.

Deputy Seamus Healy: I thank the witnesses for their submissions this morning. I have one question. Several submissions have indicated a concern that the introduction of legislation in this area might lead to a more widespread availability of abortion, with particular reference to the position in England. Is that not unfounded given that we operate on the basis of a written Constitution and that the test being suggested here is one of the probability of a real and substantial risk to the life of the mother, as against the test in England which relates to the threat to the health of the mother? In those circumstances is the concern about a more liberal regime not unfounded?

Deputy Regina Doherty: I thank the witnesses for coming here this morning. I have a question for Bishop Smith and Fr. Bartlett.

Chairman: I think the Deputy means Bishop Jones.

Deputy Regina Doherty: Yes. I apologise, Bishop Jones.

Chairman: Bishop Smith is the Deputy's Bishop.

Deputy Regina Doherty: Yes.

Chairman: He did well with Hector the other night.

Deputy Regina Doherty: Given that the church acknowledges that there should be intervention when there is a real and substantial threat to the life of the mother and that suicidal ideation or intent is acknowledged as a genuine substantial risk to the life of the mother, I am curious and I am looking for help and guidance on how the Catholic Church would advise us to deal with that scenario, given that the judgment in the X case stated that it was only allowable where every other avenue had been explored, as a last treatment. If the church genuinely wants to rule it out, and I understand and appreciate why it does from the perspective that life is sacred, what is the option in that case where a doctor or psychiatrist is faced with treating a lady, or a 14 year old child, in circumstances where no other treatment is available? Given that life is sacred, I am at a loss to see why, if we are faced with that situation, the Catholic Church gives us no option, which places both lives at risk. I would be grateful if the witnesses could help me on that point.

Deputy Peter Fitzpatrick: I welcome all the witnesses here today. I am sure we all agree

that Irish hospitals are among the safest and best in the world and that our doctors, nurses and midwives do a great job. The Catholic Church stated it has never thought the life of a child in the womb should be preferred to that of the mother and that the mother and child are two patients and I ask Dr. Jones to elaborate on this. Dr. Jones spoke about medical treatment which does not directly and intentionally seek the end of the life of the unborn baby. and I ask him to elaborate on this also. I also ask him to elaborate on what he stated about abortion and the direct and intentional destruction of an unborn baby.

Senator Marc MacSharry: I welcome all of the witnesses and thank them for their presentations. In recent days we have heard medical opinion, and one issue many of us, including me, struggle with is that of suicide. The psychiatrists seem to be agreed on the fact that for every 100 suicides they predict, only three will materialise to actual suicide. This may mean that if we were to legislate, for every 100 abortions authorised or deemed to be appropriate part of treatment only three would have been necessary. I am interested to hear the views of the various churches and I ask the panel, in particular Ms Good and Mr Nugent, to comment on this.

Senator John Crown: I beg the indulgence of the visitors, and I will speak while sitting as I am a little too tall for the microphone. I have a number of rather focused questions and wish to direct them to Dr. Jones and Father Bartlett. We do not have exact figures, but it appears approximately 30 terminations of pregnancy are conducted annually in Ireland for reasons of threat to the life of the mother. It is likely none of these have been because of suicide, although we are not sure. It is also the general consensus of the obstetricians who testified to us that under the current constitutional situation they are not aware of any case where a woman has been denied a life-saving termination because of an ethical or religious scruple on the part of the doctor. Given the fact that medicine is getting a bit better - I know mothers are getting a little bit older - it is likely we are dealing with a phenomenon which under the legislation to be proposed under the current constitutional and judicial framework will apply to approximately 30 people per annum.

In truth, most of the objection being raised comes from Roman Catholicism, through the organised church and sincere members of the laity who subscribe to its teachings, and it is that somehow this number will increase dramatically. However, the witnesses have stated to us they do not believe there will be an abuse of the system by women spuriously claiming to be suicidal or by doctors spuriously diagnosing suicidality to impose social abortions. What is the mechanism the witnesses believe will lead to this incredible increase in abortion? I am troubled to know what it is. I cannot work out hypothetically what it would be because I do not believe the Supreme Court, given what we already have in our Constitution and what will come onto the Statute Book, will interpret it differently.

I would also like each of our esteemed guests in turn to tell me on behalf of their organisations, the Roman Catholic Church, Anglicanism, Presbyterianism, Methodism, Sunni Islam and Orthodox Judaism, whether a woman is allowed to rise to the top job in the organisation.

Chairman: That is outside of our remit. However, we will take note of the question. As 20 minutes remain in this segment of the meeting I ask the witnesses to focus on the questions.

Fr. Timothy Bartlett: I will make some opening comments which Dr. Jones will supplement. It is impossible to address every question and answer it in detail in the time allowed, so I will do my best to touch on several threads running through them. Someone mentioned that life is not always as straightforward as we would like it to be. This is absolutely true and no one in this room does not know this, has not experienced it and has not had to deal with it. As

professionals involved in this area, the clergy and faith leaders of all traditions operate in this territory on a daily basis.

Just as it would be wrong to caricature anybody else in this debate I appeal to people not to caricature those in churches, whatever their positions in those churches, as somehow unhuman and unfeeling and detached from their own families and the real circumstances of life including nieces, nephews, and sisters who may have to face these situations. I ask people to accept this.

What we say comes from the midst of this messy situation and is not detached from it in some abstract way. When we confront a messy situation it is then in particular that moral values, laws for society and, in our case, our faith, are critical to guide us through the complexities. In this regard I wish to come back to a question that was raised. It was suggested that if there is a risk of even one woman taking her life in suicide that legislation must be introduced. We need to respond to this with absolute compassion and the greatest professional care possible to protect the person from harming herself and, indeed, another. However, if we believe in the equal right to life of the unborn, as stated in Article 40.3.3°, we should be equally concerned about the direct and intentional killing of an individual human person.

With respect, this brings me to the core of the concern of the Catholic Church in this matter and the concept of widening the possibilities. It is a fundamental human right, not based on faith but based on our very shared humanity and common dignity inherent to us as human beings, that we have a right not to be harmed by another if we are an innocent person and to have our life and its integrity completely respected. The cause of our reaction is the move away from the principle that it is absolutely wrong in any circumstance to directly and intentionally take the life of an innocent person, which is what the X case judgment opens up. This is the dangerous territory opened up in terms of appeal and challenge to any legislation the Oireachtas tries to impose to restrict the terms of the X case judgment. This is our concern. Once this line is crossed morally as a guiding principle then it opens up, and with respect we see this everywhere not least in the State, the pressures and possibilities of other scenarios, such as end of life care. This moral principle is precious, but sometimes moral principles and laws are challenging and difficult. They hold us back from doing what we might think is most compassionate, best or most expedient. This is the thread at the heart of our concern about the X case. It crosses this line in principle. When one starts to legislate one must legislate for this possibility. This is at the heart of it.

With regard to a doctor who might fear going to prison and the issue of guidelines, as we stated in our submission it is possible in Irish law to produce professional guidelines which are reviewable by the courts without getting into the necessity to legislate. I want to say to my colleagues who speak about legislating to give doctors security that in principle there is nothing wrong with this, but once legislation is built on the X case judgment the scope of that judgment must be taken into account and the line will be crossed, because if it is not crossed the legislation will be open to challenge.

Reverend Christopher Jones: Senator Imelda Henry asked how would I respond to a mother whose child has become pregnant through rape. All of us understand this is a traumatic situation for a young girl and her family. It is dreadful. The only response I can suggest is that back in the 1970s I was asked by the bishops to establish the Cura agency. I wish I had time to explain to everyone present the success of this agency and its compassion over the years in helping girls through horrific situations. I do not have time to outline them. I have no doubt if I could bring such a young girl to the Cura agency counselling service it would help her enormously through the tragic crisis in her life. We all want the violent person who committed that

horrible crime to be brought to justice.

In keeping with our determination that every life is sacred, there is no circumstance in which the taking of a human life is justified. We claim that we must protect the innocent, voiceless and powerless unborn child in the womb. The solution of taking that life is no solution.

I refer to Senator Crown's question about why we are concerned that the introduction of abortion will lead to an escalation in time. In the light of our discussion, I ask members to reflect on a few matters, for example, Dr. Patricia Casey's research on the 79 deaths among 600,000 births in the three major Dublin hospitals. Two of those deaths were through postpartum suicide, that is, due to depression after birth.

Some made an excuse for England. Baron David Steel, the man who introduced the 1966 Bill in England, regrets having done so, given the escalation in the number of abortions in that country. Jane Roe who is responsible for the introduction of abortion in America is now a pro-life campaigner. We must listen to the evidence.

Most Reverend Dr. Michael Jackson: As I am sure everyone knows, the Church of Ireland is episcopally-led but synodically governed. First, I will give Mr. Harper an opportunity to say something, after which I might comment. A question was asked about women in the top position. Whatever one considers to be the top position in the Church of Ireland, we can leave that issue.

Chairman: It is not relevant.

Most Reverend Dr. Michael Jackson: It has been our option since 1988.

Chairman: Dr. Jackson should not take Senator Crown's bait.

Mr. Samuel Harper: The point of difference, in some sense, is whether to legislate. Regulation is good and the Medical Council's guidelines are excellent. However, when read in conjunction with the 1861 Act, they are quite daunting, certainly for a woman and her medical advisers, be they psychiatrists or others. For this reason, these regulations need the support of legislation. Others have referred to justiciable regulations, but the most definite way to have such is via legislation. Therefore, the system can work.

There is sympathy for the reality that gates, whatever they may be, will be opened by the legislation's introduction, but the measure of that legislation will be how it controls the situation. In other jurisdictions it has gone out of control in the opinion of those who introduced the legislation. However, our legislators have the benefit of their experience to ensure it is done correctly. We do not envy members' task as legislators, but we do have confidence in them to do it right. There must be a balance.

Senator MacSharry referred to the figure of 3% of threatened suicides that actually occur. The measure of the legislation will be how it identifies the 3%, not how it opens the door for the 100%. We need to do this in the interests of caring. It is not a matter of legislation, rules or regulations but how we should deal with sensitive and serious issues. Legislating is how we will balance caring for the lives of the unborn and the mother. It is also how we will protect professionals and parents in these serious situations. We must accept their integrity and provide the framework within which they can operate.

Most Reverend Dr. Michael Jackson: I have had an increasing concern in the past three

days, not specifically in this morning's gathering. It relates to how suicide is becoming a third person issue. It is always a first person issue. Throughout Ireland we are conscious of the turmoil and torment for individuals, those who love and care for them and those who do not love themselves.

It is important to remember something that has been mentioned. Up to 130,000 women in a period of many years have had abortions. If I may use a phrase from another context, they have joined the disappeared. We are not in a real sense able to assess their torment. I am concerned that, regardless of what legislation or regulations are introduced, there should be an ongoing commitment to sympathetically supporting people who for whatever reason go through with an abortion. The torment continues for the individual. If we turn this into a third person issue, it is not real to the human condition.

Ms Heidi Good: My partners in the Church of Ireland have largely stated my opinion from the perspective of the Methodist church. The care and protection of the mother and the unborn are primary. As Dr. Jackson stated, we must remember the care of the silent forgotten. I did not quite catch the statistic of 3% mentioned.

Mr. Samuel Harper: Some 3% of those who threaten to commit suicide actually commit suicide.

Ms Heidi Good: It is often mentioned in the media and elsewhere that only a small number of those who threaten to commit suicide because of pregnancy commit suicide. For many years and in different ways the State has proved that it cares for the individual. We do not decide not to legislate simply because only one person would be affected. If there had only been one murder in the past 100 years, we would still have had a law to the effect that murder was wrong. Therefore, even if only one woman in the next ten years is exposed to the risk of suicide in her life because of pregnancy, it would be wrong of us not to legislate to protect her.

Mr. Michael Nugent: Regarding the question on maternal suicide, each case must be treated on its own merits. A doctor treating a patient cannot treat her on the basis of what occurred in other cases. Earlier this week we heard evidence that maternal suicide was both rare and a leading cause of maternal death. Members might be concerned about crossing the line in legislating for suicide, but it has already been crossed in the X case. Abortion is legal in Ireland for women who face a real and substantial threat to their lives, including that of suicide. The job of legislators is not to decide whether that should be the case. Their job is to regulate through legislation.

Dr. Ali Selim: As I stated in my submission, the lives of the mother and the baby are of great value. Nevertheless, if a group of competent medical professionals assert that a pregnancy puts the life of the mother in danger, the decision to abort can be taken but only in such a case.

Rabbi Zalman Lent: I will address the fear that legislating for suicide might open the floodgates. Everyone present is cognisant of the fact that any woman who is contemplating a termination is not in a good place, regardless of whether that termination occurs. We need to approach this compassionately, taking account of the feelings of the woman and to trust in our medical professionals. As a father of four children born in Ireland, I believe we must place our trust in the medical professionals that they will be able to decide when this is and is not genuine. The low percentage of three in 100 suicides is to the credit of our mental health professionals. From a Jewish point of view, every case must be taken on its merits. Where there is a serious risk to the life of the woman, intervention is recommended.

On Senator Crown's point, I recommend he take a quick leaf through the Old Testament which refers to large numbers of powerful women throughout the history of the Jewish people who were judges and prophets.

Dr. Trevor Morrow: It is fair to say that the joint committee has heard from the Abrahamic faiths an unreserved commitment to the sanctity of human life as a starting ethical principle for a just and stable society.

It is recognised that abortion is being practised in Ireland, otherwise those in the medical profession would not be, because of the 1861 Act, seeking some form of legislation to protect them. The concern of those who are committed to the sanctity of life in regard to the potential for such legislation to result in the opening up of the floodgates is a genuine concern rather than a questioning of the integrity or commitment of the moral ethos of the Oireachtas. The UK Abortion Act 1967 was introduced by then MP David Steel who is the son of a Presbyterian Minister. His intent was social justice, particularly for women within that society. Our concern is the changing ethical approaches to abortion within society down through the years, particularly throughout western Europe and the United States of America, which is creating a context wherein the future could be somewhat uncertain.

I would like, if I may, to read some quotations. The Hippocratic oath states: "... I will not give to a woman a pessary to produce an abortion ..." The Declaration of Geneva 1948 states: " ... I will maintain the utmost respect for human life from the time of conception, even under threat ... ". The Council of the British Medical Association stated in 1947: " ... The spirit of the Hippocratic oath cannot change and can be reaffirmed by the profession ... " and " ... this Oath 'enjoins' the duty of curing, the greatest crime being the co-operation in the destruction of life by murder, suicide and abortion ... ". The 1959 UN Declaration on the Rights of the Child states: " ... the child ... ,including appropriate legal protection, both before as well as after birth ... ". By 1970, things began to change. The Declaration of Oslo provides that therapeutic abortion may be performed in circumstances where the vital interests of the mother conflict with those of the unborn child. The amended Declaration of Geneva 1983 states: " ... I will maintain the utmost respect for human life ... ". This means that by the year 2000, in the Royal College of Gynaecologists in Britain, abortion is seen just as a basic health care need. In giving these quotations, I am providing a description of the change of climate and culture that is taking place. The fear is that when legislation is passed it will contribute and add to this and create a context which will be detrimental to the sanctity of human life.

Chairman: The 60 minute time limit for questions from members of the joint committee has elapsed.

Senator Colm Burke: I asked for clarification on legislation under which regulation could be introduced.

Chairman: We will come back to that during the questions and answers session. As there are only 20 minutes available during which non-members of the committee may put questions and nine members have indicated I must ask them to be brief. I call Deputy Eric Byrne.

Deputy Eric Byrne: My question is to Bishop Jones. There were disturbing reports surrounding the death of Savita Halappanavar.

Chairman: The Deputy cannot raise that particular issue as it is currently under investigation.

Deputy Eric Byrne: That is fair enough. Everybody will be conscious from newspaper reports that the lady concerned had asked the medical profession to terminate her pregnancy.

Chairman: I cannot allow any questions on that matter.

Deputy Eric Byrne: It was suggested to the lady concerned that Ireland is a Catholic country. We are now all aware that that lady was a Hindu.

Chairman: The Deputy is getting into another realm now.

Deputy Eric Byrne: This issue is more than relevant. We are legislating-----

Chairman: I appreciate that but the matter is not relevant to today's discussion. There is an investigation under way of that matter and I would prefer that the Deputy not discuss it.

Deputy Eric Byrne: Okay. I will put my question to Bishop Jones. Ireland is a Catholic country with, according to the last census, 84% of people professing to be Catholics. Can Bishop Jones confirm that what he is suggesting to us as legislators is that we listen and implement the Roman Catholic Church's ethical and moral teachings and that we apply them to our hospitals? If so, will he then explain, given the diversity of religious views and opinions we have heard today, how he would instruct Catholic legislators to deal with this issue?

Senator Fidelma Healy Eames: I welcome the witnesses. My question is to Mr. Nugent and Ms Good. Given that we know a baby can with appropriate supports live outside the womb from 24 weeks onwards, where is the human right and respect for the foetus if the X case sets absolutely no limits in this regard and how can they, according to their ethical beliefs, justify this? Where is the compassion in that? Would they agree that in this regard the X case is flawed?

Deputy Terence Flanagan: I thank the witnesses for appearing before us today. My first question is directed to Bishop Jones and Fr. Bartlett. It was stated that when a seriously ill pregnant woman needs medical treatment, which may indirectly put the life of her baby at risk, such treatments are morally ethical provided every effort is made to save the life of both the mother and her baby. I would welcome comment from Bishop Jones and Fr. Bartlett on the situation where death of the baby is considered inevitable. My second question is to Archbishop Jackson, whose submission indicates that there is a variety of opinion with the Church of Ireland on what constitutes exceptional cases. Perhaps he would elaborate on that variety of opinion for the joint committee and say on what grounds he believes the Irish Medical Council guidelines are insufficient to ensure that women receive life threatening medical treatment in pregnancy.

Deputy Bernard J. Durkan: I have three questions for Bishop Jones. In the event of a further referendum, which presumably would be to set aside the judgment in the X case, is it envisaged that such referendum would set aside the decisions of the people in two previous referenda whereby the provision in respect of suicide was retained? On rape, is it the position of the Catholic Church that the victim of rape, which in itself is a criminal offence against the person, should live with the consequences of that rape regardless of her wishes, including in cases of statutory rape and rape of a person with special needs? Is it accepted that legislators should be expected to validate the decisions of the medical profession when faced with situations whereby, as already pointed out, there may be a question as to whether the life of the unborn may be sacrificed in order to protect the life of the mother or is it anticipated that such situations might be determined in a further referendum given the experiences of the past?

Senator Jim Walsh: My first question is for Bishop Jones and Fr. Tim Bartlett. Their position is that we should progress the non-statutory but desirable guidelines that clarify current practice with the two-patient model. If it were possible to construct legislation which would underpin current medical practice in that area, without including suicide, how would they feel about that?

My second question is for Archbishop Jackson. He talked about the 1861 Act. Has he taken into account the presumption within *mens rea* for indictable offences and the defence whereby people are acting in good faith, which would apply to both mother and doctor? Does he believe there should be no sanctions for illegal abortions or does he think the level of sanction in the 1861 Act should be lower? With regard to the number of women going to England, undoubtedly women go there in crisis. A Dublin doctor told me recently about a woman who is going for her fifth or sixth abortion.

My final question is to Miss Good. She recommends that we should provide for abortion in cases in which there is a risk of grave injury to the physical or mental health of the mother. They are the grounds that apply at present in Britain, a country where there have been 6.4 million abortions, or 200,000 per year. Lord Steel has commented on that. Does she not agree that this has resulted in a situation in which approximately one out of five pregnancies end in abortion? That is an unacceptable level. There is a 20% chance of a baby being aborted.

Chairman: The Senator is over time.

Senator Jim Walsh: I invite each of our witnesses to talk about the continuum of life, which is dependent on the preceding path of that life. That is a biological fact. In other words, if one interrupts life at any stage-----

Chairman: The Senator is being unfair to other members. I call Deputy Michael Creed.

Deputy Michael Creed: I thank the witnesses for their presentations, which contain much food for thought. I have questions for Bishop Jones and Fr. Bartlett. Page 2 of Bishop Jones's presentation states: "It is therefore our view that the most efficient and morally acceptable way of responding to A, B and C *v*. Ireland is for Government to consult with professional bodies to progress non-statutory but justiciable guidelines that clarify current practice within the two patient model of maternity care. This is current best practice in Irish hospitals. It is internationally recognised and celebrated." That refers to the Medical Council guidelines. He went on to say that those guidelines should be enhanced, while Fr. Bartlett said that life-saving treatment is available at present. These are all variations on a theme that reflects the *status quo*. However, the *status quo* is underpinned by the Medical Council guidelines which state in respect of abortion: "Abortion is illegal in Ireland except where there is a real and substantial risk to the life (as distinct from the health) of the mother. Under current legal precedent, this exception includes where there is a clear and substantial risk to the life of the mother arising from a threat of suicide. You should undertake a full assessment of any such risk in light of the clinical research on this issue." Is the church effectively saying it is happy to have the current *carte blanche* arrangement as envisaged for treatment of the threat to the life of the mother, unfettered by any legislation or regulation that, for example, imposes an obligation on medical practitioners to consult or seek a second opinion or impose restrictions regarding the time limit within which a termination can take place? Is the level of disdain for the legislator, in seeking to rein in and put a framework on those guidelines, such that they feel we should not trespass in this area at all?

Deputy Marcella Corcoran Kennedy: I thank the witnesses for their presentations. My

first question is for Bishop Jones and Fr. Bartlett. How widely have they consulted with women in the church? If they have, what is the mechanism for such consultation on this significant issue of women's health? Bishop Jones referred to the distinction between medical intervention and abortion. Will he explain what that distinction is? Does he agree with comments made to the committee by one of the legal experts during these hearings that the definition of life is a life that is capable of being born, or does he believe life begins at the moment of conception? Some of the other churches have been clear about their position on this, so could Bishop Jones clarify that?

Senator Ivana Bacik: Over the last two days we have heard the consensus from independent legal and medical experts on the need for legislation for the X case. Atheist Ireland is correct to point out that three days of parliamentary hearings should not be necessary to discuss how the law should allow a doctor to save the life of a dying pregnant woman. I have a question for the Catholic representatives in that context - that is, those who oppose legislation for the X case. Is that opposition not based on an underlying belief in the innate deceitfulness of women, and misogyny? Second, they spoke this morning about compassion. Where is their compassion for the teenage girls who are victims of rape or incest, who become pregnant as a result and are suicidal as a result of that, as we saw in the X case and subsequently? Finally, can they say what business it is of a church whose members are entirely and exclusively male and celibate to pronounce in such absolutist terms on such critical issues regarding the reproductive rights and health of women and girls?

Chairman: On a point of clarification, the church is made up of both men and women. I call Senator White.

Senator Mary M. White: The hearings of the last few days have been a momentous event. An equally momentous event was when we passed legislation for civil partnerships. It was a very moving occasion.

My question is for the representatives of the Catholic Church. If priests were allowed to marry, as clergy from other religious institutions can, and if they had daughters, perhaps if a daughter was raped and abused they might feel differently about demanding and insisting that she carry the pregnancy through to delivery of the baby. To be honest, I find it difficult to accept that men can speak in extraordinarily forthright terms, as if they know everything. How do they know what women feel if they are raped and abused and become pregnant as a result?

Fr. Timothy Bartlett: I am sorry that I cannot respond to every question. I will try to get a thread running through them. Are we asking legislators to legislate for a Catholic morality in this country? The simple answer is "Absolutely not". As I said earlier, the principle of the right to life is a human rights principle. That is the starting point of all of this discussion. Somebody asked about the distinction we make between licit medical intervention and abortion. Medical intervention to save the life of the mother is possible, as we clarified in the opening statement. The member might not have been present at the time. The Catholic Church has never taught that the life of the mother should be preferred over that of the child or that the life of the child should be preferred over that of the mother. We have stated repeatedly this morning that medical intervention to save the life of the mother is morally licit, as long as every effort is made to continue to protect and save the life of the child even if in practical circumstances that may lead to the unintended death of the child. Some people have suggested that this distinction between direct and indirect and intended and unintended is some type of Catholic moral principle. Go to our courts. Our law acknowledges that moral culpability or legal consequence is weighed up against intent and direct or indirect consequences. This has nothing, in that sense, to do with

specifically Catholic moral theology.

With respect, this is the first stage of this debate in which I have been caricatured. As I mentioned earlier, we should avoid that type of caricature. It might surprise members to know that I know many women and there are many women whom I love dearly in my life, and if they had to face these circumstances I would feel deeply about it. I ask members not to caricature us, just as I and Bishop Jones have not caricatured anybody else. No woman has ever called me a misogynist.

Most Reverend Dr. Michael Jackson: I wish to make a brief response and try to draw a few things together. With regard to the 1861 Act, the continuing reality of automatic sanctions is tremendously daunting. The committee heard that earlier about people on the front line of delivery - medics and nursing staff.

On the sufficiency or otherwise of the Irish Medical Council guidelines, our point is that in the absence of legislation, they remain guidelines; the legislation will underpin that and give confidence to those people for whom the guidelines are not enacted. That is another side of the argument that must be considered.

There was also a question on the range of opinion within the Church of Ireland. The first point I articulated was the question of real and substantial risk and that would be the central position. To be fair, however, there would be fluidity on a lesser or greater sympathy regarding suicide and aspects of health. We speak as individuals from within the church. The Church of Ireland must make decisions synodically and within the timeframe we had that was not possible. We are not blaming anyone for this but we are saying that we are trying in some way to represent aspects of thought within the Church of Ireland and I thank the committee for giving us a hearing.

Ms Heidi Good: A member asked us where the compassion is. Perhaps in my presentation seeking the rights of the mother, I gave an impression of a lack of compassion in the Methodist Church for the unborn. I ask the committee to forgive me for that because in my own heart personally and having spoken to many Methodists across the land, no one is fully happy with the position we take because we have compassion for the unborn, I assure the committee of that. We support all possible life saving measures. It is a desperate situation and I would not want to be in the medical profession and have to make these choices. This is a difficult issue and we have compassion for everyone involved.

Dr. Trevor Morrow: Apart from expressing gratitude on behalf of the Moderator and myself for being asked to be present today, one ethical principle has not yet been mentioned. That principle is foundational to all the Abrahamic faiths, the principle of hospitality. That practice is foundational to the ethos of our faiths and is particularly manifest in the Middle East and the Islamic and Jewish traditions. What is practised by the mother in her care and love for her child, by the extended family for the mother, by the community for that family which historically has lain at the roots of some of the best aspects of what constitutes Irishness. I would encourage that in whatever legislation is necessary, that principle of hospitality is woven into the fabric of such decision making.

Dr. Ali Selim: I would like to say that we cannot give the green light to victims of rape that they can go for an abortion but where psychological problems and, likewise, physical problems, are considered by medical doctors and they decide the only alternative to come out of the situation is abortion, I would support that.

Mr. Michael Nugent: I will answer the question I was asked about whether I was being prescriptive. I am being the opposite of prescriptive. I am saying individual ethical decisions must be taken by individuals and that individual ethical decisions about pregnancy must be taken by the pregnant woman in conjunction and consultation with her medical team. The committee might be confused by the point I was making that the legislators are restrained by the 1983 amendment as interpreted by the Supreme Court in the X case. I wish that was not the case, legislators should not be restrained and should be able to pass laws based on the needs of Ireland today but until such time as we get rid of the 1983 amendment, that is not possible.

On the question of late abortions, if the foetus is viable, it will be delivered as a baby. That is what happens in hospitals; there are Caesarian deliveries every day in our hospitals so we should not invent problems that do not exist.

Senator Fidelma Healy Eames: His proposal was X without time limits so does he now not agree with X without time limits?

Reverend Christopher Jones: There is huge confusion about terminology out there. I read in the newspapers yesterday about direct abortion, which is the deliberate destruction of human life. As Fr. Bartlett has pointed out, the situation where in treating the mother with every possible medical attention, a child dies, that is not abortion in our view. That must be clarified because there is confusion on this issue.

We do not need to legislate for abortion to protect women's lives. We do not need to legislate for abortion to satisfy the European Court of Human Rights. In our view, abortion is always morally wrong because it takes the human life; there must be another way.

Chairman: I thank all members of the churches and the atheist organisations for being here this morning .

Sitting suspended at 11.35 a.m. and resumed at 11.50 a.m.

Family and Life, Iona Institute, Pro Life Campaign and Youth Defence

Chairman: I welcome everyone to the meeting. This is the ninth session of the hearings of the Oireachtas Joint Committee on Health and Children to discuss the implementation of the Government decision following the recent publication of the expert group report into matters relating to A, B and C *v*. Ireland. At each session up to and including this morning's, we heard thoughtful and considered submissions which have been followed by sensitive engagement and discussion, and this approach has facilitated the hearings, which have been constructive and informative.

For the purposes of clarity, I will set out again the background and intended role these hearings are playing in this important discourse. We are here to discuss the implementation of the Government decision following the recent publication of the expert group report into matters relating to A, B and C *v*. Ireland by way of legislation and regulation within the parameters of the current constitutional provisions. The Government has stated that the aim of its action on this matter is to ensure clarity and legal certainty in the process for determination of whether a termination of pregnancy is permissible in cases where there is a real and substantial risk to the life, as opposed to the health, of a woman as a result of a pregnancy. In doing so we must

ensure that we take full account of Article 40.3.3° of the Constitution. I thank everybody for participating in this session and ask that we continue our engagement in a calm and tolerant way, respecting the various opinions and views.

I am pleased to welcome the following: from the Pro Life Campaign, Ms Caroline Simons and Dr. Berry Kiely; from Youth Defence, Dr. Eoghan de Faoite and Dr. Seán Ó Domhnaill; from Family and Life, Mr. Patrick Carr and Mr. David Manley; and from the Iona Institute, Ms Breda O'Brien and Ms Maria Steen. I thank them for being here and for making themselves available.

Before we commence, I remind members, witnesses, Members in the Visitors' Gallery and media that mobile phones should be turned off. I remind witnesses and members of the position on privilege. Witnesses are protected by absolute privilege in respect of the evidence they are to give to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to so do, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against a person or persons or an entity by name or in such a way as to make him, her or it identifiable. Members are reminded of the long-standing parliamentary practice or ruling of the Chair to the effect that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable.

I welcome Ms Caroline Simons from the Pro Life Campaign and thank her for attending. She may begin. She has seven minutes.

Ms Caroline Simons: I thank the committee for the invitation. It is a great privilege and an honour to be allowed to contribute to the committee's discussions on this important matter. Like many others, I have been listening closely on the Internet to the proceedings over the past few days and if anything has become absolutely clear, it is that the Government's argument that suicidality could be addressed by abortion, has been completely demolished. The testimony that we have heard over the past two days has completely demolished any argument that suicidality can be addressed by abortion, even during crisis pregnancy. Professor David Fergusson, in the *British Journal of Psychiatry*, states, "There is no evidence ... that suggests that abortion reduces the mental health risks of unwanted or mistimed pregnancy." That being the case, why are the legislators even contemplating passing legislation against the medical evidence? The answer is because they believe they have to because of Attorney General *v*. X and others and they are being told that they must do so because of what the A, B and C *v*. Ireland decision of the European court has required. I will come back to that in a moment.

What would be the impact of passing this legislation? First, psychiatrists would be asked to propose a procedure for which there is no psychiatric justification, obstetricians would be asked to terminate the lives of healthy babies in physically-healthy women and legislators would have violated the most basic human right for a reason which cannot be justified. Society would perceive that the right to life of the unborn is not that important and we are not really serious about protecting it. After all, it can be violated on an entirely irrational and unjustifiable basis. After a time, this would become received wisdom and that would be the end of the culture of life and the beginning of the culture of abortion. If one surrenders the principle of the right to life of the unborn, that sends a message to society which, in turn, produces a cultural change. Then other cultural questions emerge. What other rights will one overwhelm when their subjects are not very important? Some people refer to this as the slippery slope argument. Whatever one calls

it, it is certain that ideas such as these have real consequences.

Why do so many of the doctors who have addressed the committee want legislation? The pro-choice advocates, some of whom frequent this Chamber, understand the possibilities for their agenda and have welcomed the proposed legislation as an important first step and a beginning. However, most of the doctors who have come here want something quite different. They want to know, in the words of the master of the National Maternity Hospital, "that I will not go to jail", and that they are free to make appropriate clinical judgments for their patients. The reasons for this fear are somewhat puzzling. It is not sufficient to hinder the doctors in their practice of medicine as they all have stated that they have never refused an intervention or withheld any treatment because of any fear of the law. The Irish Medical Council has not received any criticism or request for clarification of its guidelines from any doctor or representative body regarding the practice of obstetrics. There have been no prosecutions of doctors. I have no doubt that those fears are sincerely held by some doctors and that we must address this perception, but the real question is whether these fears well founded. Obstetricians are not lawyers. Perhaps they do not appreciate the mental element required to prove a crime. A jury must be convinced beyond reasonable doubt that a doctor has acted deliberately intending to carry out an unlawful abortion. The doctor who acts in good faith, ethically, with due care and in a manner in which another doctor of similar expertise might be expected to act in a similar circumstance, has nothing to fear from the law. Doctors make judgments all the time. They will not always be right, but that is not negligent and it is certainly not criminal.

The European court decision in A, B and C *v*. Ireland recognised that Ireland may make whatever policy it chooses regarding abortion and the right to life. It does not require us to legislate for Attorney General *v*. X and others. It gives no direction regarding the content or form of action we take. It requires that we have accessible procedures by which people can know the law and know where they stand. That is entirely reasonable and justice demands it.

Legislating in this area would not be problematic were it not for the decision in Attorney General *v*. X and others, and here we come to the nub of it. The court heard no medical evidence. There was no psychiatric evidence. There was no duty of care to the unborn. Then Chief Justice, Mr. Justice Finlay, considered that suicidality in pregnancy could only be avoided by abortion against his test and that abortion could not be postponed in order to monitor the woman's condition unlike the case for physical risks to the woman's life. However, on psychiatric intervention, perinatal psychiatrist, Dr. John Sheehan, has told the committee, "It is exactly the opposite to the medical intervention and ... the notion of carrying out an emergency termination is completely obsolete in respect of a person who is ... suicidal." After this week, we know that abortion will never address the suicidal woman's actual needs and it might very well harm her. It is, therefore, unthinkable that we should legislate for abortion to address suicidality.

Ultimately, a referendum will be required to deal with the difficulties posed by Attorney General *v*. X and others. In the meantime, we propose that the Medical Council should draw up guidelines to deal specifically with the issues surrounding medical interventions for physical complications during pregnancy. The Government should give a commitment to the Committee of Ministers of the Council of Europe that guidelines will be drawn up by the appropriate bodies of medical expertise within the medical profession based on medical practice, addressing the case of A, B and C *v*. Ireland and giving the clarity required. The Government should give a commitment that the difficulties associated with the X case will be examined and the options for clarifying identified and that it will keep the committee informed of progress. The Committee of Ministers has acknowledged a significant increase in the number of cases relating

to complex and sensitive issues which it needs more time to resolve.

This issue is, indeed, complex and it is certainly sensitive, but this committee's efforts over the last few days have clarified much of what was confused. For this, we owe the committee our thanks. Now that they are clearly identified we may finally address the problems posed by the X case and ensure that every woman in Ireland can be confident of the continued highest standard of maternal and foetal care.

Dr. Eoghan de Faoite: I would like to share my time with Dr. Seán Ó Domhnaill of the Life Institute.

My name is Dr. Eoghan de Faoite. I am a medical doctor and a member of Youth Defence, a pro-life group. I have been involved in pro-life activities since my late teens and I thank everyone for the inviting me to address the committee on the current debate.

First, the 2010 decision of the European Court of Human Rights on the A, B and C *v*. Ireland case is, largely, the reason we find ourselves in this room today. Contrary to many media reports and some statements made by Government officials and others on the ruling, the European Court of Human Rights did not demand or even require that Ireland legislate for abortion. In fact, no legal right to abortion exists in the European Convention. Instead, the court asked that Ireland provide clarity which can, of course, be provided without legislating for the X case.

Second, abortion and maternal health care is the crux of this issue. It goes without saying that Ireland is a world leader in maternal health. Our excellent track record and high standards of maternal health care, coupled with our extremely low rate of maternal mortality, are second to none. We have achieved such high standards without legalised abortion. This is because Irish obstetricians and other specialists will always intervene to save the life of a mother when she has a life-threatening complication of pregnancy. This practice of intervening, which includes premature delivery of the baby even when the baby has little of no chance of surviving, is permitted in Ireland today. It is permitted under Irish law and by the Medical Council's ethical guidelines and is within pro-life principles. As a medical practitioner, I believe the current Medical Council's guidelines are crystal clear on the question of intervening in pregnancy when a woman's life is at risk. I echo Professor Fionnuala McAuliffe's recent comments that obstetricians know they have absolute freedom to intervene to save the life of a woman, even if it means the loss of the life of her unborn baby.

This brings us to a crucial distinction which was clarified during this committee's hearing on Tuesday last but is all too often misunderstood. That is the distinction between the termination of pregnancy and the termination of the life of a child. Irish doctors have such freedom to intervene under current Medical Council guidelines because there is a clear difference between intervening to save a woman's life, which includes premature delivery of the baby, and abortion, which intentionally destroys the life of an unborn child. The blurring of the distinction between these two practices is what is contributing to public confusion. Birth, an emergency caesarean section and premature induction of labour are all terminations of pregnancy. Thanks to the expertise of our obstetricians and neonatologists many of these premature babies survive. How can these be described as an abortion?

The questions offered by Senator John Crown directly addressed this distinction during the hearing on Tuesday. Senator Crown asked if it is necessary in permitting a life-saving termination of pregnancy to kill the foetus *in utero* or can the pregnancy be delivered to give the life-saving treatment the woman needs. The Master of the National Maternity Hospital responded

by saying:

> 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.

It was also established that there were no known instances where a mother had needlessly lost her life because of any supposed lack of clarity in the legal framework.

Third, claims are often made by pro-abortion campaigners that women need to leave Ireland to access, so called, life-saving abortions in the United Kingdom or elsewhere. Many of my medical colleagues find it grossly insulting to their profession to suggest that we are risking women's lives by not permitting abortion in Ireland. Almost always, these claims are made without foundation or fact. Figures freely available under Freedom of Information legislation from the Department of Health show these claims to be entirely false. The most recent data from the Department of Health for the years 1992 to 2010, inclusive, show that zero abortions were carried out on Irish women in Britain under category F of the Abortion Act which records abortions carried out to save the life of the mother. Furthermore, zero abortions were carried out on Irish women in Britain during the same period under category G, which records abortions carried out "to prevent grave permanent injury to the physical or mental health of the mother". That number is zero because Irish women are never denied the life-saving care they need during pregnancy. A review of this evidence, easily undertaken, reveals that Irish women are not travelling to the United Kingdom to undergo, so called, life-saving abortions because they are being denied treatment in Ireland. The truth remains that Irish women are safe in Ireland and are receiving, today, whatever life-saving treatments they need.

Dr. Seán Ó Domhnaill: Members of the committee, members of the public and public representatives, I am a consultant in general adult psychiatry working in the public, independent and voluntary sectors where I deal with the broadest possible case mix. I have also worked as a consultation liaison psychiatrist with particular responsibility for perinatal psychiatry in Ireland for more than two of the last three years.

I began my career in psychiatry in Jersey in 1997 one month before the legalisation of abortion on that island. My very first assessment of an attempted suicide victim occurred in my first weekend on call in Jersey when I was asked to review a 19 year old girl who had taken a large overdose of medication. During the assessment, when I asked her why she had sought this ending to her life, she indicated that she had been pressured six months earlier by her parents and boyfriend to undergo a termination of pregnancy, and because abortion was not legal in Jersey at that time she was forced to travel to Southampton where she had the abortion against her will. Six months later she had descended into a profound depression and attempted to end her life as a result. At the time of the assessment as I tried to discuss with her how she would recover from this depression, and I remember it clearly, she said, "Can you tell me I have not killed my own baby? Can you tell me I can undo what I have done? Can you tell me how to bring my baby back?".

I hope I am in a better position today to answer those questions which are asked of me on a frequent basis. In may day-to-day work I frequently come across women who find themselves in situations they describe as crisis pregnancies or unplanned pregnancies. In the past 12 months alone, I can refer to a case of a lady who, 22 years previously, had undergone an abortion. Her husband reported that in the intervening 22 years, for a period of approximately

three weeks around the anniversary of the abortion, she suffered a marked depressive mood. I also know of a 21 year old patient who presented for treatment of post-traumatic stress disorder, having had an abortion on the advice of her mother and her aunts seven years previously. These people have been left out of the hearings, to a large extent.

The third edition of *Revision Notes in Psychiatry*, edited by Professor Basant Puri, which is the major text book on psychiatry states, "Only 10% of women suffer with severe or prolonged sequelae as a result of induced abortion". The word "only" shows the approach being taken to women who suffer as a result of abortion. This percentage amounts to approximately 19,000 women in Britain and 400 in Ireland per year.

Chairman: I welcome Mr. David Manley from Family and Life.

Mr. David Manley: On behalf of Family and Life I thank the committee for the opportunity to address it today and to allow us to contribute to its deliberations. I hope that I and my colleague, Mr. Patrick Carr, will be helpful to the committee.

What follows is a much shortened version of the written opening statement which has been circulated. The issue of abortion is characterised as being divisive and indeed this is so. There is, however, a large area of agreement and common ground. Everyone, I assume, is in agreement that women in Ireland should receive whatever medical care they require in pregnancy. At the same time there is a large majority of Irish people who would like to see the protection of unborn human life continue.

Provided that people are reassured that such protection will not have any weakening effect on medical care provided to pregnant women, all but a small number are content to see the comprehensive prohibition of abortion in Ireland. I use the word "abortion" in the commonly understood sense and I am aware of the confusion that surrounds this word.

In the 2010 case of A, B and C *v*. Ireland, the European Court of Human Rights did not require Ireland to legalise abortion. The court required the Government to put in place procedures that are effective and accessible for women. It made no stipulation as to what the legal status of these procedures should be. Following the decision of the European Court in that case, the Government established an expert group to lay out the options available to it. Unfortunately and for reasons not altogether clear, the expert group's remit was restricted to giving advice, "on how to give effect to existing constitutional provisions". In other words, it limited itself to options giving effect to the Constitution and the X case judgment.

The 1992 judgment of the Supreme Court in the X case is - and in my view, will remain - the source of our current legal difficulty and social controversy until such time as its suicide provision is removed. The judgment of the European Court of Human Rights only requires Ireland to address the perceived lack of clarity in its law on abortion. In reality, the clarity which the court requires can be provided without enshrining in statute law a principle that allows for the direct and intentional killing of an innocent human being; in other words, the suicide provision. I depend very much on Professor William Binchy's testimony yesterday.

It is clear from the testimony given by prominent obstetricians who have come before this committee that further clarity is desirable indeed. However, it is important to note that whatever lack of clarity currently exists and which existed previously clearly did not prevent doctors in Ireland from providing women in pregnancy with the high standard of medical care they need.

It is regrettable that the Government has prematurely committed itself to a course of action

without the benefit of the valuable testimony that has been presented to this committee over the recent days and without the benefit of the work of this committee. This is particularly the case since the course of action chosen involves legislation giving statutory effect to the suicide provision of the X case. All the psychiatrists who testified before this committee agreed that abortion is not a treatment for suicidal threat. Predicting who will take their lives is not a workable project. The idea that the lives of some human beings are less valuable than those of others has no place in Irish law. The Constitution of Ireland recognises the fundamental equality of all human beings. To their abiding credit, at a time when so many other countries were moving in the opposite direction, the Irish people in 1983 made explicit that this equality extends to the most vulnerable of human beings, the unborn. The European Court of Human Rights recognised that the Irish people's decision was based, "on profound moral values concerning the nature of life which have not been demonstrated to have relevantly changed since then." I believe there are some promises that should not be broken. The Government has no mandate to legislate for direct and intentional killing of unborn children. To do so would be to make a law that would be fundamentally unjust, violating the most basic of human rights.

Chairman: I welcome Ms Breda O'Brien from the Iona Institute.

Ms Breda O'Brien: As a woman whose primary qualification to be here is as a woman, a mother and a teacher, I am particularly grateful for the opportunity to interact with Members of the Oireachtas at such an important time. I have spent nearly three decades teaching young women who are the primary group to be affected by any decisions made by legislators. In that time I have witnessed something terrifying which members of the committee have also witnessed. I refer to the normalising of suicide so that it becomes part of a menu of options as a response to extreme stress. Like many others, my own family has been touched by suicide. When a girl comes to me in school and whispers, "I don't think I can go on much longer", I take this very seriously. I move immediately to put a circle of protective care around her, beginning with her parents. People have expressed concerns that if we exclude suicide as a ground for abortion that we are somehow stigmatising mental illness. In fact, the grave mistake would be to fail to see that there is a difference.

Doctor after doctor has told us that they never fail to intervene where there is a life-threatening risk to a mother. Someone far more qualified than me, perinatal psychiatrist, Dr. John Sheehan, has said that in the case of suicidal threat, the notion of carrying out an emergency termination is completely obsolete. A better and calmer intervention is needed.

Suicide is different. If we are to enact just and safe legislation, suicide has to be treated differently. The judges in the X case acted in good faith in making their decision. The tragic consequences for Ms C, the first girl after X to whom the test was applied, were a direct result. Ms C had been brutally raped at the age of 13 years. Unlike Ms X, Ms C was psychiatrically assessed and taken to England by the State for a termination. The consequences were disastrous. She has never gotten over the loss of the baby and has made numerous suicide attempts since. Thankfully, none of the attempts has been successful. If we want to trust women, we have to trust the experience of women like Ms C.

The Department of Education and Science has strict guidelines against doing anything that normalises suicide as a response to stress. Journalists would be excoriated if they ascribed a single or a simple cause to suicide because of the danger of so-called copycat suicide or contagion. Yet, by legislating for suicide, crisis pregnancy is being presented, even in very rare circumstances, as something so awful that suicidal thoughts and threats are an acceptable reaction. Anyone with a bit of life experience will know it is not the baby that ruins one's life, it is

everybody else. It is the family who will not stand by a woman; the principal who will not give a girl a place in his school; the partner who will pay for an abortion but who will not pay child support. That is what ruins one's life. It is those kind of attitudes which we should act against, not the innocent baby growing in the womb.

If we legislate for abortion on the grounds of suicide, we are doing something seismic. Within a year of enshrining the best interests of the child in the Constitution, something I voted for, we are saying that it is acceptable to end the life of a child because his or her mother is in distress. How can that be in a child's best interests? Nobody objects to life-saving treatment for a pregnant woman, but we mourn and sympathise with the family that loses a baby as a result, even as we rejoice that the mother is still with us.

The expert group report refers to delivering children on the fringes of viability. In the case of suicide, the perinatal psychiatrists say there is never an emergency in which an immediate abortion is necessary. Are we going to ask an obstetric team some morning to scrub up and deliberately induce labour to deliver an extremely premature baby? That premature baby will be at risk of brain damage, blindness and even death. In the case of life-threatening illness in the mother, saving the child would be a triumph no matter what the challenges. Think, however, of the devastating consequences for the child in the case of psychiatric illness. All of this is in the absence of any evidence of benefit to the mother.

Planned Parenthood, the largest single abortion provider in the United States, has stated:

> A woman with an unwanted pregnancy is as likely to have mental health problems from abortion as she is from giving birth ... A woman with a history of mental health problems before abortion is more likely to have mental health problems after abortion.

We are being told that in the case of a woman wanting to die by suicide because she is pregnant, abortion is not treatment but, as part of a package, it just might be appropriate medical care. Something that just might help does not meet the test set out in the expert group report, namely, that there must be a real and substantial risk which can only be avoided by a termination of the pregnancy. Nobody the committee has heard, from any viewpoint, has even gone near suggesting that an abortion meets the criterion of being the only way of preventing suicide. Something that just might be appropriate medical care is a very shaky foundation on which to build legislation.

Martin Luther King, from his jail in Birmingham, made the observation that there are just and unjust laws. We have a moral and legal duty, he said, to follow just laws and a moral responsibility to disobey unjust laws. Legislating for the provision of abortion on the grounds of suicide would be both unsafe and unjust.

Chairman: Thank you, Ms O'Brien. We will now proceed to 60 minutes of questions from members of the committee, beginning with Deputy Billy Kelleher.

Deputy Billy Kelleher: I welcome the witnesses. My first question is to all of them but I refer specifically to a reference in the submission by the Pro-Life Campaign to a survey of maternal deaths in the three Dublin maternity hospitals - the Rotunda, Holles Street and the Coombe - from 1980 to 2011, which found there were two maternal deaths by suicide out of a total of 680,000 live births, both of which occurred post partum, after delivery. In that particular timeframe, some 130,000 women travelled to Britain or elsewhere for an abortion. Is it possible, given that we can assume the vast majority of those who travelled were in a crisis pregnancy situation, that they might, if they were unable to access a termination, have become

suicidal? I am merely posing the question. There are no statistics or figures available to us to assess the 130,000 women who travelled abroad for terminations in that period.

When the witnesses express their concern that the inclusion of suicidal intent as grounds for termination will open up a more liberal regime, are they effectively saying there should be a referendum to row back on the interpretation of Article 40.3.3° as set out in the X case, or do they see another solution in terms of addressing the outstanding issue whereby the Supreme Court has given its interpretation to that effect? Some of the delegates will argue that the interpretation was based on flawed assessments, that no psychiatric experts were brought into play or whatever. The point, however, is that as the matter stands, in jurisprudence, it is the law that suicidal intent is grounds for the provision of abortion in this State. Are the delegates saying that the only way to address this issue is by way of referendum?

Senator Rónán Mullen: On a point of order-----

Chairman: There can be no point of order.

Senator Rónán Mullen: My intention is to assist the committee. I am wondering whether Ms Maria Steen of the Iona Institute was meant to be invited to present. We spoke about hospitality this morning-----

Chairman: As the Senator knows, throughout these proceedings each group is given an allocated time in which to make its presentation.

Senator Rónán Mullen: It seemed to me there was some confusion between the Chairman and the witness in question.

Chairman: To clarify, the time limit for each group is seven minutes. In fact, that allocation was exceeded, and I was generous on that point given what happened with Ms Simons's microphone. The Chair is fair to all members and witnesses.

Senator Rónán Mullen: I thank the Chairman for his clarification. He might agree with me, however, that it would be appropriate and generous if an opportunity were given to this particular guest in due course.

Chairman: As the Senator is aware from proceedings in the course of these deliberations, witnesses, be it in groups of one or two, are given ample opportunity to participate.

Senator Rónán Mullen: I trust in the Chairman's good judgment and hospitality.

Chairman: It is not a question of my judgment. The committee has agreed on rules and regulations for the conduct of these hearings.

Senator Rónán Mullen: I believe the point is understood on all sides.

Chairman: Thank you, Senator. I now call Deputy Caoimhghín Ó Caoláin.

Deputy Caoimhghín Ó Caoláin: I thank the witnesses for their contributions. When Ms Simons used the phrase "completely demolished" in reference to the Government, I felt like punching the air and shouting "Hurrah". I only wish it were so. I will set that aside, however, bearing in mind that there is very limited opportunity for us as legislators to question delegates in regard to this very important issue. I note that Dr. Ó Domhnaill is a consultant psychiatrist. I raised the point earlier today and yesterday that the Irish Medical Council guidelines for

medical practitioners state, as we have had the opportunity to confirm, that under current law in this State - it is case law, certainly, but law nevertheless - where a woman's life is at risk, an intervention is permissible, including in the case of suicidal intent as against suicidal thought or consideration. Dr. Ó Domhnaill has shared his experience in the course of his contribution today and in his written submission. Likewise, we had five very experienced consultant psychiatrists before us on Tuesday who each stated that despite the fact that this is included in the medical council's current guidelines, they had never in their experience had to employ such an intervention. If this is so, and given that we are advised by Government that its intention is to introduce confirmatory legislation, why would Dr. Ó Domhnaill expect the situation to change?

I welcome Ms O'Brien's identification of some of the forces and attitudes in society that have clearly driven some women, including some very young women, to seek abortions. Those attitudes must be confronted by all, irrespective of our attitudes or outlooks on the core issue being addressed here today.

Mr. Manley acknowledged in his substantial written submission that one in 19 Irish pregnancies ends in abortion, albeit on the neighbouring island. He has stated his view that a further referendum is required. Will he elaborate on this, as it is a view that was already expressed by some voices from among the church representatives?

Deputy Mattie McGrath: I welcome the guests and thank them for their offerings and wise words. Some witnesses who appeared before the committee on previous days referred to the C case, which dates from 1996 or 1997 and which involved a young girl who was taken into care by the authorities and was brought to Britain for an abortion, allegedly because she was suicidal. Is Dr. Ó Domhnaill in possession of any information he could supply to the committee in respect of the possible implications of that case? I thank him very much providing information on his experience regarding a girl forced to travel from Jersey to Southampton to have an abortion and the extremely harrowing problems with which she has been obliged to deal in the 22 years since it was carried out.

I also wish to thank Ms O'Brien - as a woman, a mother and a teacher - for her very pertinent words in respect of suicide. I am of the view that she was correct to state that there has been something of an effort to normalise suicide. I thank her for what she said because we are close to having an epidemic of suicide in this country at present.

Deputy Ciara Conway: I thank our guests for their presentations. Dr. de Faoite stated it is clear, from records he has examined, that no women have travelled to the UK for life-saving abortions. I put it to him that in recent days we have heard evidence which directly contradicts this statement. For example, a number of medics - both obstetricians and psychiatrists - indicated that it is commonplace to refer women to the UK for abortions. Perhaps Dr. de Faoite will respond on that point.

Ms O'Brien theorised about where we are going in the context of what we must do and the challenge which the Government must face up to. She referred to asking obstetricians to scrub in and intervene in order to either take the life of or deliver a child early and inquired as to what might be the consequences of such action. What the committee and the Government are attempting to do is give women choices with regard to accessing life-saving treatment. Perhaps Ms O'Brien will comment further on that matter.

In his submission, Dr. Ó Domhnaill referred to how the Government is proposing to drag psychiatrists into the draconian position of being obliged to commit women while they are

being assessed in circumstances where they are unwilling to submit voluntarily to such assessment. Again, we have heard evidence to the contrary in respect of this matter. For example, a number of obstetricians and psychiatrists who came before us previously stated that in the area of medicine, best practice often involves obtaining a second opinion. At no stage was there any reference to the committal of women. Psychiatrists informed the committee that if a woman were suicidal, they would believe her. Why, in Dr. Ó Domhnaill's estimation, would we be obliged to commit women?

Ms Breda O'Brien: I will deal first with Deputy Conway's question on allowing women to access life-saving choices. That is exactly what I would really love the Oireachtas to legislate for. Do Members have such a certainty that they can legislate on the grounds of suicide as life-saving, given the evidence that - having had abortions - some women continue to be suicidal and some tragically succeed? That is what I would offer to the committee. There is no medical evidence to suggest that it is in any way helpful. The closest people have come is to state that it just might be part of a package. One cannot actually legislate on those grounds.

I will leave it to the greater expertise of the psychiatrists and doctors present to deal with other situations as to what would actually change. However, I will provide a lay woman's opinion on what might actually change. We are social creatures and we respond to social norms. When something is legalised, it is a far bigger educator than I ever will be in a classroom and it will have a far bigger impact because it is stating that this is permissible and possible and that our minimum moral value now sits a little lower than used to be the case. As a result of the fact that we are social creatures, that has an impact and it is a change in culture. That is what we are talking about. It is very serious. We have seen the impact of changes of culture in other areas, in the tragic area of suicide and in many other areas. What we are speaking about is very serious.

Would it be okay for Ms Steen to comment on this?

Chairman: Yes.

Ms Maria Steen: Just to respond briefly to Deputy Kelleher's question about what is to be done, concerns have been raised, by some doctors in particular, regarding the criminalisation of abortion. I would say two things about that. First, as Ms Simons of the Pro Life Campaign has said, what is central to the 1861 Act is the issue of intent. There is no legal reality to the idea that a doctor might be prosecuted under the Act if he or she acts in good faith to protect to the life of the mother while obviously doing everything possible to save the life of the baby.

There has been some discussion of the decriminalisation of abortion. That is a very worrying suggestion because the 1861 Act does not just apply to doctors, it applies to anybody who attempts to procure an abortion. It has an important function in deterring back-street abortions. It also deters abortion clinics from opening on the streets of our towns and cities, such as we recently saw in Belfast. As Ms O'Brien said, the criminalisation of the offence of abortion sends out an important signal to society that it is a morally grave act to destroy the life of an unborn child. I should also note that sections 58 and 59 of the 1861 Act are actually still in force in Britain, where abortion is widely available. Even in that jurisdiction they recognise that there may be some circumstances in which it is appropriate and necessary to bring a prosecution for someone who carries out an abortion.

In terms of summing up as regards the evidence that has been heard, I would like to bring to the attention of the committee the fact that there has been a divergence of views from both

the medical community and the legal experts who were heard yesterday. The Bar Council and the Law Society are conspicuous by their absence. They both issued statements, I understand, to the effect that they could not adequately represent the divergent views of all their members. These are the organisations which represent the legal experts in this country and they are recognising that this is not a technical legal issue, it is a moral issue, a value judgment and a matter of opinion. We all have different views on that and it is important to remember this. Ultimately, this is a political decision and it is a value judgment.

What do we want our values, as a society, to be? I respectfully submit to the committee that the current medical practice, where everything is done to save both the life of the mother and of the baby and where doctors are protected in carrying out those functions, is what we want to see retained. I am an expectant mother and when I need the services of an obstetrician, I want to be sure that he or she will not intervene unless and until there is a real and substantial risk to my life. Before that point, the appropriate medical treatment is to admit me to hospital, if necessary, and give me all medical care that I need. The risk, it should be said, may dissipate but if it increases and if there is a risk to my life, then by all means I want the doctor to intervene to save my life. I have three children and a husband at home who depend on me. That is current medical practice and all we would like to see is that protected and enshrined in the law.

Mr. David Manley: In reply to Deputy Kelleher, if one asked Family and Life would it want a referendum to row back the suicide provision in the X case, the answer would definitely be yes. This brings up the matter that was so often repeated during the week, and, indeed, has been said by no less than the Minister for Justice and Equality, namely, that the 1992 and 2002 referendums confirmed the correctness of X and the support of the Irish people. I happen to have lived through 1983, 1992 and 2002 and my grey hairs show the work I put into trying to get the vote out. Two questions were put to the people in Albert Reynolds's 1992 referendum. It asked them if they wanted termination - that was the word used - accepted and if they wanted the suicide provision removed. Pro-life people, and excuse me for using this shortened version, felt caught between two opposite poles and felt they had to vote against it. In 2002 the same question was asked of the people, namely, do they want the suicide provision removed but, unfortunately, there was a deep division among pro-life people and a large number voted against the 2002 referendum. It is incorrect to say that most people in Ireland support the suicide provision. My colleague wants to add something to that.

Mr. Patrick Carr: On the question of whether we want a referendum and the reason we would want a referendum, it relates to the deep problems with the suicide provision of the X case ruling. That is a problem that has been recognised for the past 20 years. It is the main reason the X case has not been legislated for and various attempts have been made by successive Governments to remove that problematic element.

It is not unique to Ireland that a supreme court would make a faulty decision. I mean no disrespect to the court. It was faced with an extremely difficult case and I do not envy the task it was given. Supreme court decisions from other countries were subsequently recognised as being deeply flawed and repudiated. In the United States, for example, the Dred Scott decision in the middle of the 19th century upheld the principle of slavery. The Buck *v.* Bell decision in the 1920s justified forcible sterilisation of women judged to be unfit and, more recently in the United States, the Roe *v.* Wade decision which has not been reversed although the previous two decisions have been reversed. What those three decisions have in common is that they introduced the idea that some people are less equal than others and that some lives are less valuable than others. That is the same principle that informs the suicide provision of the X case decision,

namely, that in certain circumstances the life of the unborn may be deliberately targeted.

Dr. Seán Ó Domhnaill: I will combine some of the questions. Regarding the cases recorded of Irish women who travelled to the UK, Deputy Kelleher gave a figure of 130,000 and wondered if some of those cases could have included women with suicidal intent. We obtained a freedom of information disclosure from the Office of Population Censuses and Surveys in England and Wales last August and from 1992 until 2011, which are the most recent figures, two women gave reasons along mental health grounds. No one gave the reason of suicidality. One of the grounds was mental illness - that was the phrase used - and the other one was depressive disorder. In my experience, as in the experience of all the psychiatrists who have given evidence here this week, abortion has never been indicated and is not reported in any journal or textbook as being a treatment for either mental illness or depressive disorder. I hope that answers that particular question.

I have combined the questions on the treatment of acute suicidal intent. On the last question regarding the procedures that would be followed, as I mentioned, some of the procedures would be considered draconian. The problem with the presentation of someone who is acutely suicidal is that she is presenting as someone who is acutely stressed, usually in the context of having recently discovered that she is pregnant or later in her pregnancy having discovered that, say, a relationship has broken down and she no longer has the support she had previously. The key thing to do in that situation, and it is the same for anybody who is assessed or considered to be at risk of suicidality, is to carry out a thorough assessment of her psychiatric history and her mental state at that time. If it is a case that two psychiatrists are needed to provide a specific opinion, the process does not change. Dr. Sheehan referred to that when he stated: "... in our practice, we see people who are profoundly depressed... clearly the intervention [in that case] is to admit [them] to hospital... support and help them... not to make a decision that is permanent and irrevocable." Dr. Sheehan said that the intervention in that case is to admit him or her to hospital, but I should point out that the process of admitting someone to hospital involves their either agreeing or disagreeing to be admitted to hospital. The only legislation we have is the Mental Health Act of 2001 and if someone is deemed to be at immediate risk of suicide, acutely suicidal, he or she must to be admitted to a place of safety. We are restricted by law. We cannot just say that we accept the person is suicidal but she should go home, come back and we will get a second opinion. She has to be admitted and in this situation most people will not want to be admitted to hospital. In that situation one is obliged, ethically and legally, to detain the person in under the Mental Health Act. That is draconian, and that is what this Government is purporting to do.

Deputy Ciara Conway: That is existing law.

Dr. Seán Ó Domhnaill: Yes.

Chairman: We will not have questions.

Deputy Ciara Conway: That is existing law.

Dr. Seán Ó Domhnaill: That is what the Government intends to bring in.

Dr. Eoghan de Faoite: I will address the question on the UK abortion statistics. We either believe these statistics from the Department of Health or we do not. These are not something I conjured up. They are actual statistics released from the Department of Health under a freedom of information request and they are freely available to everyone. We have often heard abortion

figures quoted by pro-abortion lobbyists in the past and we either believe them or we do not.

In response to a freedom of information request I made to the Department of Health specifically requesting information on the number of abortions that were performed on Irish women under the grounds of saving their lives, I was given a range of information. The UK Abortion Act categorises abortions from A to G. F and G directly relate to where there is a risk to the life of the mother and abortion is performed for that reason, and they account for those figures. I was told by the freedom of information officer in the Department of Health that zero abortions were performed in the 18 year period between 1992 and 2010, which was the only period to which he had access, on Irish women in England under grounds F and G. Out of interest I also inquired under grounds A and B because they also relate to women's health. Under those grounds I was informed that only ten abortions were carried out in an 18 year period on Irish women in England where they may, during the course of pregnancy, present with a life-threatening condition. When one examines the reasons those ten abortions were carried out, only three of those ten are actual physical medical conditions and the rest are mental illness, depressive disorder, as Dr. Ó Domhnaill said, and failed abortion attempts. They were the other seven. Those three physical medical conditions are conditions that can be treated in Ireland and do not require the direct termination of the life of the unborn.

Dr. Berry Kiely: As most of the questions the Deputy raised have been answered, I will confine my remarks to the one that was not answered, which was from Deputy Conway. We had a clear message from the obstetricians that they have no difficulty acting within current legal guidelines to do whatever is necessary to save the life of a pregnant woman. That is one of the most important and clear messages members have received in the past two days. The obstetricians gave specific figures as to how often the procedures in question might occur. That was extraordinarily helpful.

One individual raised the issue of referring to England women who did not fit within the aforementioned category. This is outside the committee's brief because it does not come within the test of the X case. The X case was one in which the woman's life was at risk. Furthermore, it was a question of her life only being savable by terminating or ending the pregnancy. This leads to the question of values. The truth is that one will find that within the medical community, as within the legal community, people have different values. I refer in particular to the value attached to the life of the unborn. There is a danger in thinking that doctors all think the same way about all sorts of issues.

I received last night a copy of an e-mail that I believe the Chairman received from a number of obstetricians.

Chairman: We discussed that in our opening session this morning.

Dr. Berry Kiely: It is interesting in that it demonstrates that while none is disagreeing about the management of women with life-threatening illnesses, there is disagreement on whether there is a need for legislation, a change to the current position. This reality is outside the ambit of this committee.

It is worth saying that we have very useful information on why Irish women go abroad for abortions. The Women and Crisis Pregnancy study, carried out by researchers in Trinity College at the behest of the then Minister for Health and Children, points overwhelmingly to social reasons as the reasons women go abroad for abortions. This is a challenge for the Government, which has a role to play in addressing some of those reasons.

Ms Caroline Simons: I wish to answer Deputy Ó Caoláin's question, which represents his wishful thinking based on the idea that I had said the Government should be demolished. I actually said the total body of evidence heard over the past few days has completely demolished any argument that suicidality can only - as with the X case requirement - or ever be treated by abortion. That being the case, we know that women's actual needs when suicidal and pregnant will not be addressed by abortion. Therefore, it would be madness to legislate for it.

Senator Colm Burke: I thank all the speakers, who have given a good summary of the issues.

It was argued this morning that there was no medical evidence given to the court in the X case. Does this not lead to the argument for the need for legislation? If the legislation set out specifically that two psychiatrists, for example, must sign off on a case, the court would be clearly guided in such circumstances.

There are 126 obstetricians working within the 19 maternity units across the country. The view of all of them is that, at all times, they must protect the life of the mother and child. No change in legislation will change their view in that regard; it is their priority. However, the obstetricians are seeking clarity. It was argued this morning that there should be regulation rather than legislation. This morning, I argued about circumstances in which there is regulation without legislation. If an additional regulation can be introduced under existing legislation, what is that legislation? Could it still be tested in the courts at a later stage if there were a lack of primary legislation dealing with the regulation? That needs to be clarified.

Deputy Denis Naughten: From all the evidence we have heard from the speakers, I note there is no disagreement that there needs to be some mechanism to implement the judgment of the European Court of Justice. The evidence we have heard from everyone is that there needs to be clarification regarding the current Medical Council guidelines and practices. Dr. de Faoite made the point that the current Medical Council guidelines are crystal clear. However, as I understand it, the current guidelines have extended the grounds for the termination of pregnancy by comparison with previous editions. The guidelines cover suicidal ideation. Under the guidelines as they stand, a single specialist could make a determination. The evidence we have received suggests that up to four specialists should sign off on a determination in a given case. The guidelines will vary based on the composition of the Medical Council from five-year term to five-year term. The people have absolutely no input in this regard. Based on that, does the delegation not believe that there is a need to legislate and set in statute what should be allowed, making reference to the current guidelines rather than basing judgments on the next electoral college and next group on the Medical Council?

Senator John Crown: I thank our guests. I will repeat my question of this morning. When we questioned our colleagues from the maternity hospitals, it appeared that there are probably 30 abortions per year at present carried out where there are unambiguous grounds based on a risk to the life, rather than the health, of the mother. The consensus among our colleagues was that no cases have been missed. They believe that no maternal deaths occurred because of a reluctance to perform medically required abortions because of religious or ethical scruples on the part of a doctor. It has not happened. It is believed none of the abortions was due to the threat of suicide. It is likely, barring some unbelievably epidemiological mischance, that we are legislating for approximately 30 medically necessary abortions per year to save the life of the mother. It is extremely likely that nearly none of these would be carried out on the grounds of a threat of suicide. Therefore, one must ask why this particular aspect of the proposed legislation is exciting such extraordinary interest. There are two possible explanations, one of which

is that it is believed there will be a major increase in the number of abortions that are not bona fide on the grounds of there being a real threat to the life of the mother.

If this is not the case, is there a suggestion that suicidality would be feigned? Many people have denied they believe there will be feigned suicidality but there is a gap in the logic somewhere. If it is not a case of feigned suicidality, what is the mechanism by which there would be a great increase in the number of illegitimate abortions that are not necessary on medical grounds?

Deputy Seamus Healy: I thank the witnesses for their submissions. Let me continue with the question asked by Senator Crown. Medical and legal witnesses have stated categorically over recent days that legislation envisaged by the Government will be very narrow and restrictive. One, if not more, individuals suggested we are dealing with approximately 30 cases per annum. The Pro Life Campaign's submission disagrees with that specifically. As with Senator Crown, I want clarification in this regard.

With regard to fatal foetal abnormality, particularly where the foetus would not be viable outside the womb, what is the view of the witnesses?

Deputy Regina Doherty: My question refers specifically to the issue of suicide, bearing in mind that nobody to whom I have spoken and not one of the experts we have heard to date – Dr. Ó Domhnaill is the sixth psychiatrist to appear before us – has said abortion is a treatment for somebody who is presenting with suicidal ideation. Consider the options in the expert group's report as to how legislation could be framed regarding the composition of the group that must sign off on a case, be it one obstetrician and one psychiatrist or one obstetrician and one cardiac specialist, depending on the problem of the woman presenting. In my humble view, I can envisage that if and when the legislation is passed and given the proposed restrictions, there probably never will be a case in which a woman potentially could receive or be recommended an abortion. Consequently, knowing what the witnesses know and how they treat their patients, I am curious as to the reason there is such a huge concern for such a tiny number of prospective medical interventions, particularly in respect of suicide. What is their fear? I obviously lack the expertise to know, when one talks about floodgates opening, where the witnesses envisage them opening or, having passed legislation, what potentially would be their fears?

Deputy Peter Fitzpatrick: I must mention again the survey from the three Dublin maternity hospitals, namely, the Rotunda, the Coombe and Holles Street hospitals, which found that from 1980 to 2011, two deaths occurred by suicide, both of which occurred after delivery, out of a total of 680,000 live births. This is to prove that doctors are doing their best to protect both mother and child. Many families in Ireland have experience of suicide and I must state we cannot have abortion on demand. I have asked the following questions of previous groups over the past two days. Do women who have abortions increase the risk of mental health problems, such as depression or substance abuse? I acknowledge people might think I keep asking the same questions but it is a matter on which I must get clarity. Are women who have had abortions more likely to commit suicide? Finally, does motherhood protect from suicide?

Deputy Mary Mitchell O'Connor: I thank the witnesses. Yesterday, Dr. Simon Mills put forward draft proposals, in the form of heads of a Bill. I invite the witnesses to comment on them because he stated before the joint committee that he thought the draft would stand up robustly in law. I also am very concerned as I heard someone state there was no need for legislation, the position was crystal clear, the witness concerned was happy with what is there at present and with the medical guidelines. I am neither a legal nor a medical person but for

the benefit of my constituents, I want to know the reason the master of Holles Street hospital, herself a mother of four children, would appear before the joint committee with other masters to state they were not happy, feel exposed and need clarity. As an ordinary person, I just cannot get it. Finally, do we trust the medical profession, be they obstetricians or psychiatrists?

Chairman: As 20 minutes remain in this slot, I will allocate five four-minute segments. I invite Ms Simons to begin.

Ms Caroline Simons: In respect of suicide, the bottom line, which is very much appreciated by people on the pro-choice advocacy side of this issue, is that legislation must include suicide because of the X case decision. One cannot excise the suicide element. That is a fact, they know this and consequently, if they seek legislation, they wish to leave in suicide. As for the reason we are concentrating on it, as the medics will tell one - members have heard this abundantly clearly over the last couple of days - it is not ever the only and is not ever a treatment for suicidality. As for Senator Crown's question - if he has finished looking at Twitter - I should say to him-----

Chairman: Please.

Ms Caroline Simons: I support him in that endeavour, as we are all twitterati here.

Chairman: I must request that one should not make reference to what the member is doing. That would not be fair.

Ms Caroline Simons: I beg the Chair's pardon. However, I am looking at the display, which is pink, and it is so attractive that I cannot take my eyes off it. I am so sorry if it is offensive. Senator Crown asked whether I was suggesting that anyone would feign suicidality or whatever. I have stated there is a legal problem in respect of suicide, as well as a medical problem in respect of suicide. As for feigning it, I note that when Dr. Anthony Clare spoke at the Oireachtas hearings in 2000, he stated that once one put this into the psychiatric arena, psychiatrists were hopelessly compromised. Moreover, Lord David Owen is on record as having stated that he coached his patients in order to present as being suicidal. One must realise what human nature has to say in this regard. I hope I make this clear.

In respect of Deputy Healy's question on lethal foetal abnormalities, that is not covered by the X case and will not be included in this legislation. I therefore was very surprised, on examining Simon Mills's draft, to find he had included both the health element and the lethal foetal abnormality element, because that will not be in legislation and is not appropriate. I now wish to hand over to Dr. Berry Kiely.

Dr. Berry Kiely: I wish to make one small point. Someone, I apologise for not remembering who, made the point that everyone is happy that all treatment can be given at present and consequently asked why we are afraid about legislation. It is highly interesting when one considers this point because if all one was going to put into legislation was what is the practice at present, such legislation would look very different to what is being proposed by the expert group. At present, an obstetrician who is treating a woman before him or her can make the decision that he or she thinks is best. Under this new proposed legislation, obstetricians will not be able to do that because they would be obliged to get the opinion of yet another obstetrician or another doctor.

Deputy Mary Mitchell O'Connor: No.

Dr. Berry Kiely: I understood the Deputy was talking about getting two-----

Chairman: Sorry, can we address remarks through the Chair? We have had a very civilised debate for the past three days without going into criticism.

Dr. Berry Kiely: If it is helpful, I do not mind taking a question for clarification.

Chairman: Briefly.

Deputy Mary Mitchell O'Connor: My understanding was that the Medical Council asked for no change in respect of emergency cases and that the master of Holles Street hospital-----

Dr. Berry Kiely: That is my point.

Deputy Mary Mitchell O'Connor: ----- asked for no change in cases of emergency. Consequently, they do not need two obstetricians.

Dr. Berry Kiely: In other words, this legislation is proposed to deal with something more than what currently is being done. That is my point. Members are being asked to widen what is current medical practice. They are being put in a position in which they are now being asked to allow for more. As to whether it is a little more, a medium amount more or a lot more, I do not know. I have no doubt but that members will do their best to make it as restrictive as possible. Nonetheless, however, it clearly will be more than what is there at present and will be more than what is actually needed. Of itself, that already would be an opening of the door. It may be a very small and tight chink but one should consider what has been the experience of any country around the world once there has been such an opening. Basically, what members are being asked to do is to lessen the value that is given to the life of the unborn. Once one states that because this member of the human race is unborn, it does not count for that much, then one is opening the gates. Apart from anything else, to be honest and utterly simplistic, why have the pro-choice groups been advocating for this measure if it was going to make no change whatsoever?

Chairman: I thank Dr. Kiely and reiterate that we should not make reference to what members are doing. It is out of order.

Ms Caroline Simons: I apologise to everyone in the Chamber.

Dr. Eoghan de Faoite: I will address what Deputies Durkan and Mitchell O'Connor asked in respect of Medical Council guidelines. In my view, which I know will be shared by many medical professionals in the country, the guidelines are crystal clear and doctors know when they can intervene to save the life of a mother. In the wake of the tragedy of Savita Halappanavar-----

Chairman: Please do not make reference to that case.

Dr. Eoghan de Faoite: I apologise and take that back. Very recently, Professor Fionnuala McAuliffe, who is chairwoman of the public relations committee of the Institute of Obstetricians and Gynaecologists, stated that doctors do know, when they intervene, that they are perfectly entitled to so do and are covered under Medical Council ethical guidelines to intervene when a woman's life is at risk. That being said, I never stated, in any part of my submission, that I am against legislation or against clarification. I know my own understanding of the Medical Council ethical guidelines but if it is shown, through discussion and debate, that doctors seek further clarity and seek either a legislative footing or further clarification in the form

of Medical Council guidelines to allow them to practice medicine and maternal health care, I would not be against that and nor would any pro-life person I know. The problem I have is that any legislation, clarification or even guidelines that are brought forward must also recognise the right to life of the unborn child and must recognise that with that, a doctor does everything he or she possibly can to save the life of the mother, while at the same time recognising that he or she also has a duty of care to the unborn child.

I will conclude on this single point. I acknowledge what was stated recently by the masters of the maternity hospitals during the course of these hearings but I wish to bring members' minds back a little, to the Oireachtas hearings of 2000 and 2001, at which extremely experienced obstetricians, the heads of the institute, testified before Government officials. Each stated the opposite to what the master of Holles Street hospital said during the week, that is, that each knew exactly when to intervene when women's lives were at risk and never put women's lives at risk when they suffer a complication of pregnancy. In their minds, treatment for things such as cancer in pregnancy, ectopic pregnancies or severe pre-eclampsia, those interventions do not constitute abortion. It is extremely dishonest of the newspapers that had front page headlines yesterday, including the *Daily Mail*, blazing headlines that 30 abortions are taking place in Irish hospitals every single year, when we do not know the circumstances of those cases. Some of those cases may have been a premature induction of labour where a baby was delivered alive and survived. Therefore, I think we need honest reporting on those facts.

Dr. Seán Ó Domhnaill: Several people asked the same question: what was the huge fear surrounding the suicide scenario in relation to the X case? Of course, the reason for it is that the X case judgment superficially dealt with abortion for suicidal risk. There was no medical evidence provided before the Supreme Court in 1992. That led to a seriously flawed judgment, in my opinion, because the experts on the assessment of suicidal risk are consultant psychiatrists. The evidence that was given to the Supreme Court at that time was given by a child and adolescent sex therapist - probably not the best place to go looking for advice on suicide.

The real concern is that our cultural cousins in the United Kingdom and the USA have had the experience of seeing the so-called floodgates opened in relation to suicide. In 1966, the year before the Abortion Act in Britain, the overwhelming majority of abortions were carried out under cover of the 1938 Rex *v.* Bourne Act, where Sir Alex Bourne had carried out an abortion on a rape victim to protect her health. Those were the grounds up until 1966. Following the passage of the Abortion Act in 1967, within 12 months of its enactment, over 95% of all applications for abortion were on risk of suicide. In the United States, the exact same thing has happened. We have gone from a situation of 80,000 abortions in 1966 to over 190,000, most of those being on the grounds of risk of suicide.

Mr. David Manley: I would like to deal with Senator Crown's question, which I thought was very important. Why is there so much emphasis on the question of suicide? In my opinion, it is not because of numbers, slippery slopes or floodgates. It is because if legislation were passed it would allow, for the first time in Irish law, the life of an unborn child to be directly and exclusively taken. In our Constitution we have given that unborn child the right to life, equal to the mother, equal to yours and mine. How can a law permit such an injustice? That is the problem.

The 30 cases of abortion that were mentioned raise the whole difficulty of using the right words. The obstetricians who talked about their work on the first day, spoke of their efforts to deal with two patients. Whatever intervention they had to make when heart trouble or cancer threatened the life of the mother, their efforts were always to preserve and save the life of the

mother and, as far as possible and practical, to preserve the life of the child. That is not an abortion.

An abortionist in London has only one thing to do and that is to take away the life of the unborn child. That is the only thing, and if he fails to do that, he will lose his job.

Somebody asked - I have forgotten who it was - if we trusted our doctors and nurses. Yes, of course I do and all the people I know do also. I also trust our local gardaí, my son's teachers, and county councillors. Do I trust the politicians? Well, the kindness-----

(Interruptions).

Chairman: Order, please.

Mr. David Manley: The kindness and help that I got around here in the last few days have restored my trust in politicians.

Chairman: Good answer.

Mr. Patrick Carr: I will pick up on a couple of points that were raised. Deputy Naughten pointed out that we do need a mechanism to comply with the A, B and C *v.* Ireland ruling, and that is clearly the case. He pointed out, and I think it is an important point, that the Medical Council guidelines will vary every five years. Indeed, successive editions of those guidelines have, from this particular perspective, become somewhat weaker in the sense that they have incorporated some of the thinking of the X case decision. However, it may be possible to have guidelines other than those of the Medical Council. I would see the Institute of Obstetricians having a major role to play in formulating such guidelines, since they are the people most directly affected other than the pregnant women, of course. They are the people who are seeking clarification. The fact remains, however, that while guidelines may satisfy the requirements of the A, B and C *v.* Ireland judgment, they will not resolve the underlying issue, which brings us back to the X case that can ultimately only be resolved either by revisiting the Supreme Court's jurisprudence or by a referendum.

Chairman: The speaker's time is up. I will now call on Ms O'Brien and Ms Steen.

Ms Breda O'Brien: The late, great Garret FitzGerald was once alleged to have said: "That's all very well in practice, but will it work in theory?" Whether he said it or not, I am really proud of having found a situation where that applies. What we have at the moment is wonderful practice, which means that abortions are not carried out on the grounds of suicide but genuine, life-saving treatments are carried out. That is the practice. What is being proposed is to change the theory, or at least to enshrine it into legislation, which is somewhat different. It is a very important step. I could turn it around to the committee and say that if they think this legislation will never need to be used, why are they legislating for it?

The floodgates argument is not the argument that I would make, even though I do allow for human nature and change in cultural norms. I do take all of that seriously. The key argument for me is whether this will help or harm women, and whether this will help or harm the unborn child. Sadly, and I say this as somebody whose family has been affected by suicide, suicide is a terrifying reality but it remains a possibility. I am one of the lucky ones where the person who was actively suicidal is alive. However, there is an absolute certainty that if one is carried out on the grounds of legislation that the committee is not even entirely sure should be there, the

child will die.

Ms Maria Steen: I want to address briefly two questions that were raised. The first was by Deputy Mitchell O'Connor about the concerns raised by the master of the National Maternity Hospital. I have spoken to a number of legal colleagues about this, many of whom disagree with my views on abortion, but all of whom are *ad idem* about the fact that there is no legal reality to a prosecution being brought under the 1861 Act against a doctor who acts in good faith with the intention of saving the life of the mother. There has never been a prosecution in living memory. While I said it is not necessary to amend the 1861 Act which is still in force in Britain, if it were thought necessary to allay the fears of the medical community then there could be the possibility of amending the Act with an addition to the effect that where a doctor acts in good faith with the intention of saving the life of the mother, under the Act it will explicitly state that he or she will not be guilty of an offence. What is very important also is that specific provision be made in protecting and vindicating the right to life of the child - the unborn life. If that is in any way helpful, that would be a suggestion that I would make.

Regarding the floodgates argument touched on by a number of speakers. I know Mr. David Manley and Ms Breda O'Brien discussed it but I wish to reiterate that while it is a concern, it is not a primary concern for those who hold pro-life views. What is of concern to those with pro-life views is the direct and intentional killing of an unborn child and the legislating for an unjust law. If a law is talking about taking the life of an innocent life, then that law needs to be justified. Currently, we can justify it under current medical practice where a doctor acts to save the life. However, if we are talking about enacting a law that directly and intentionally takes an innocent life, then it needs to be justified in stronger terms. I am personally against the death penalty. In some jurisdictions, it is justified on the basis that someone has done something so awful that they have lost their right to life. How can I agree with the idea of taking the life of an innocent child whose worst crime is its mere existence?

Deputy Mary Mitchell O'Connor: I asked whether the delegations trust their doctors and psychiatrists but not their nurses. I also asked about their views with Dr. Simon Mills's views on suicidology.

Deputy Regina Doherty: Dr. Seán Ó Domhnaill said when the law was passed in the UK, 95% of abortions arose from suicide intention. Does a patient or a pregnant woman in the UK who proposes to have an abortion have to go through a psychiatric assessment? If so, is Dr. Seán Ó Domhnaill suggesting that the psychiatrists that these women present to are being duped?

Dr. Seán Ó Domhnaill: I can quickly tell the committee about my experience in Jersey in 1997 when the abortion Act was extended there. One of my consultant colleagues there had a stack of leaflets at the side of her desk all pre-stamped. All that was required was the name of the patient. We know from investigations in Britain going back as far as 1974 that this has been repeatedly shown to be the case. The *Sunday Telegraph* has done undercover investigations which have also shown this. It is something we need to worry about.

Chairman: I want to acknowledge in the Gallery, former Members Ms Geraldine Kennedy and Ms Gemma Hussey, and two former members of staff, Ms Margaret Brady and Ms Claire Fallon. I welcome them to today's hearings.

Deputy Aodhán Ó Ríordáin: I welcome the witnesses to today's meeting. On the suicide issue, I am afraid that if people have come here to argue that suicide as a risk to the life of a

mother should not be in this legislation, then there are here under a false premise. We have to legislate for the threat of suicide to the life of a mother because that is the very basis of the X case for which we are legislating. The Constitution states under Article 34.4. 6°, "The decision of the Supreme Court shall in all cases be final and conclusive." We have had two referenda to underwrite and stand over that decision made in 1992. We have to legislate for suicide. The discussion we are having here is not whether or not we legislate for suicide but how best that can be done.

I want to make sure the delegations answer my following question. They are here to lobby politicians. What type of lobbying do all those present believe is appropriate and inappropriate when lobbying politicians on this particular issue?

Deputy Terence Flanagan: In his submission, Dr. Seán Ó Domhnaill referred to a recent international symposium on maternal health in Dublin at which it was confirmed direct abortion was not necessary to save mothers' lives and that this declaration has been signed by 400 doctors to date. Will he give some background to this declaration? What parts of the country are these doctors from and what are their qualifications and specialties?

Ms Breda O'Brien and Ms Maria Steen raised the issue of mental health and the well-being of the father and other family members, a factor which they said has not received much consideration during these hearings. Will they comment further on it? What do they consider to be the main issues that arise with this? They also mentioned the danger of normalising suicide as a response to stressful situations. Are they aware of any evidence that this occurs in pregnancy?

Family and Life expressed concern about the definition of abortion. Can Mr. David Manley comment further on this, about necessary medical treatments and the confusion in the public domain about the terms used? Mr. David Manley made a distinction between the termination of a pregnancy and the termination of the unborn? Will he elaborate on that?

Senator Fidelma Healy Eames: I welcome the panel. There has been a missing voice in these hearings – the direct voice of the pregnant woman in crisis who has to face a real human dilemma. So far, we only have had secondary evidence. For that reason, I am very grateful to Dr. Seán Ó Domhnaill and Ms Breda O'Brien for going there as far as they can. Dr. Seán Ó Domhnaill described assisting a 19 year old suicidal woman post abortion. What does he believe is the best framework we can provide as legislators so that we can adequately help such women?

Does Ms Caroline Simons believe we have to legislate for suicide arising from the European Court of Human Rights request for clarification? I appreciate Ms Maria Steen giving to this presentation as the voice of an expectant mother. There is direct evidence here. The obstetricians have asked us for flexibility. Is Ms Maria Steen saying that the current medical guidelines are legally adequate to protect the mother's life and the doctor who said their primary reason is to preserve life?

Senator Jim Walsh: Will Dr. Seán Ó Domhnaill and Dr. Eoghan de Faoite give us details about the Dublin declaration and the specialties of those involved because Dr. Rhona Mahony was quite dismissive of it when she was before the committee?

All the evidence we got from the medics was that they have never found a situation where our current legal framework in any way inhibited them from giving best possible care and being able to interfere in whatever way they felt was best practice to save the life of a mother. The

fear of legislation has been raised, I understand, by certain obstetricians. There is a gathering number of them, a point to which Dr. Berry Kiely referred, that are concerned that by prescribing legislation, we would interfere with the current best practice in medical care despite our intentions not to do that. Will she expand on this?

Senator Paul Bradford: I want to direct my questions to the female members of the panel this morning. Over the past several days, a certain word has taken on a degree of currency. It has been suggested - perhaps alleged - that questioning the whole psychiatric issue and numbers using the suicide clause as an argument for abortion is an insult to women. Is it an insult to women? Are our current restrictions on abortion an insult to women? Are women in countries, such as Britain, China and India, where there is a much more liberal abortion regime, somehow held in higher esteem or higher regard. On this concept of something being an insult to women, are our abortion laws an insult to Irish women?

Deputy Marcella Corcoran Kennedy: Do the witnesses agree that there is a difference between guidelines and regulations and, if so, do they accept that guidelines do not have the force of law and could be legally challenged?

Do those who are present who were recorded on the EWTN television channel agree with its statement that agents of the culture of death are attempting to have abortion legalised in this country and also that the Government is currently legalising abortion in Ireland under the guise of exceptional cases?

Deputy Bernard J. Durkan: Given that there is a disparity of views, as we have seen and heard over recent years, and over recent days in particular, in the degree of emphasis, depending on which side of the argument one finds oneself, is it immeasurably better that there be legislation to ensure consistency of treatment in all circumstances for women who are pregnant and thereby eliminate the possibility of placing the responsibility on the practitioners?

Reference has been made to the possibility of setting aside the Supreme Court interpretation of a previous amendment to the Constitution. While one may disagree from time to time with the decisions of the courts, even the Supreme Court, is it still accepted that the Supreme Court is the ultimate authority in the determination of what is or is not constitutional?

Numerous comparisons have been made with the situation in the United Kingdom as being applicable to this country. Given the written Constitution in Ireland's case and the reliance on Magna Carta in the United Kingdom, is it a worthwhile comparison?

Senator Ivana Bacik: Following that last comment, could the legal representatives opposite clarify the following? I heard one of them state that risk of suicide was a ground in the English Act. I looked again at the 1967 Abortion Act and, as they all will be aware, of course, risk of suicide does not require to be proven. The test is a much lower test of injury to physical or mental health of the woman. There is no comparison between the English provision and the Irish law, as it currently is in terms of the Constitution and the Attorney General *v.* X and Others test. The Attorney General *v.* X and Others test is a much higher standard, of real and substantial risk to the life of the woman.

Following from that, there is another correction on which I seek clarification from them. Some of them spoke about a change of culture by legislation. How can it be a change of culture when the legislation we are talking about is legislation to implement existing law in terms of the Constitution and the Supreme Court decision in Attorney General *v*. X and others?

Third, in terms of the criminal law and the 1861 Act, doctors have testified, as those present all have heard, that they have a fear of being prosecuted. The only reason there have been no prosecutions over recent decades is because abortion is legal in England and every year 4,000 women are travelling to England. Earlier in the week we heard evidence from the doctors that research shows that, for example, infanticide and rape prosecutions increased in Ireland during the Second World War when it was difficult to travel, and we have seen, as women have been able to travel to England in such numbers, that prosecutions have not occurred.

I should say that I am probably the only person here who has been threatened with jail, which was in 1989 for giving out information on abortion. I am glad to say the law has moved on-----

Chairman: I thank the Senator.

Senator Ivana Bacik: -----and students are no longer faced with the threat of imprisonment for that.

Chairman: I thank the Senator.

Senator Ivana Bacik: It is a real fear of prosecution under the 1861 Act.

Senator Susan O'Keeffe: I thank the witnesses for their time. It seems they have effectively dismissed the Supreme Court judgment, both referendums, the ruling of the European Court of Human Rights, the expert group's findings, the master of the Rotunda and the bona fides of psychiatrists, and they appear to want to believe that the clarity we have is sufficient and that legislation is not required. Perhaps it is Ms Breda O'Brien's version of life, which I found quite a shocking statement, that, "it is not the baby that ruins one's life, it is everybody else". Do any of them call themselves democrats?

Chairman: I call Senator Martin Conway.

Senator Martin Conway: The proceedings have been enlightening. We have witnesses here from both the pro-choice and pro-life sides of this deliberation, but I would hope that from these proceedings we will see a pro-common sense approach to dealing with this problem.

I have one question, specifically for Youth Defence. I would consider some of the campaigning Youth Defence has done in the past barbaric to say the least. I would ask them directly whether they will change their tactical campaigning over the course of the decision making that will take place in the next few months regarding this legislation or whether we will see appalling billboard campaigns throughout the country over the next few months. It is a specific question to which I want a specific answer.

Chairman: Finally, and my apologies for missing him, Deputy John Paul Phelan.

Deputy John Paul Phelan: I thought the Chairman had seen me indicate. I apologise.

Chairman: The Deputy is tall enough anyway.

Deputy John Paul Phelan: I am not sure to whom to direct my question. I have listened for the past three days. I have been at virtually all of the sessions. I am interested that there is perhaps not as much disagreement as I might have anticipated. I want to ask these witnesses about the existing statute, the 1861 Offences Against the Person Act, that, I suppose, is the kernel of the difficulties that were pointed out by medical professionals who were here earlier

in the week, and its contradiction by the constitutional amendment of 1983 as judged by the Supreme Court. In light of the fact that all of the witnesses who have spoken have stated that they accept the current medical practice whereby terminations which are required to protect the life of the mother should be allowed, is it possible that legislation would be introduced in 2013 which would see the constitutional provision enshrined in law but that the ban on abortion would be protected? I am particularly interested that Dr. de Faoite mentioned that he was not against legislation *per se*. Perhaps he might directly answer that.

Chairman: We will start with Dr. Berry Kiely of the Pro Life Campaign and then move around.

Dr. Berry Kiely: Apologies, it is just that I must go and I asked if I could speak first.

Chairman: Yes.

Dr. Berry Kiely: The question of whether it is an insult to women is something that has arisen here. I will be utterly honest about it. Emotive language does not help in this. Committee members need to have a clear head in dealing with this. If the committee does what is just and fair, that will not be insult to anybody. If it takes into account the rights of everybody involved, things will be said about the committee and thrown at it, but at the end of the day the important matter is that we do what is just and what is fair. I would leave the emotive language out of it.

As far as I am aware, there is no disparity of views about what is needed to be done for any woman who is ill during her pregnancy, and I think the committee would be of the same opinion. Everybody is agreed on that. The difficulty with which the Oireachtas is faced is that it is being asked to legislate for more than that. That is where there is a disparity of views. As far as I am aware, there is no disparity of views from any of the presentations the committee has received that abortion is not a remedy for suicide and that, furthermore, abortion is associated with an increased risk of suicide.

All I can say about the comment on the Supreme Court is, as far as I am aware, it is not considered to be infallible. It is the best we have at any given moment, but if we find - it is 20 years ago - the Supreme Court did not hear the evidence the committee has been hearing for the past two days, I suspect if it had it would have reached a very different conclusion. There is no getting away from the fact that it is time to revisit that Supreme Court decision, much and all as none of us likes to think in terms of a referendum. I would like to hand over to Ms Simons.

Chairman: I am aware Dr. Kiely must go. She did say so at the beginning. I thank her for coming in.

Dr. Berry Kiely: I thank the Chairman.

Ms Caroline Simons: On the questions, I will deal with two together. We were asked whether we are lobbying politicians. We are not here to lobby politicians. We are here to answer questions to the best of our ability. I cannot help on the question of EWTN.

Senator Bradford's question on the insult to women has been dealt with by Dr. Kiely and I agree with her. It is not for no reason that Senator Bacik wants suicide included because it is not possible to legislate for the X case without it. The testimony members have heard over recent days has been conclusive. There is no argument that abortion is the only treatment for suicidality. That being the case, why would one want to legislate to do something which would have no improving effect and has been seen to harm women? It does not make sense.

In regard to Senator Healy Eames's question, we do not have to legislate for suicide on foot of the decision of the European Court of Human Rights in A, B and C *v.* Ireland. That court recognised that we may make our own policies on abortion and the right to life. Once we have made the law, we have to ensure our citizens can understand it and avail of it. In regard to whether we can act through guidelines, the court observed that medical guidelines currently do not offer precision regarding the criteria by which a doctor is to assess risk. That does not mean they cannot do so, however, and we have examples of non-statutory guidelines issued on clinical decision making as recently as this year. The Royal College of Obstetricians and Gynaecologists in the UK recognised that the biggest killer of pregnant women by 2008 was sepsis in pregnancy. They addressed that problem in April 2012 by issuing a set of guidelines for recognising and managing sepsis in pregnancy. The Irish Institute of Obstetricians and Gynaecologists responded similarly in 2012 in regard to managing miscarriage in the first trimester. It is entirely possible to do this and there are many examples of where guidelines have been introduced.

Ms Breda O'Brien: I will leave the legal issues to Ms Steen, who is far more qualified. For the information of Deputy Ó Ríordáin, the last person in public life who was associated with the acronym TINA - there is no alternative - was Mrs. Thatcher. Given that, like me, the Deputy has socialist leanings I am amazed he is endorsing that attitude. There is always an alternative and legislators have a grave responsibility to find the alternative if what they plan is unjust.

I am delighted that he raised the issue of lobbying. I am developing a bee in my bonnet in this regard. Politicians feel the hard edge of it, with disastrous consequences in some cases. I feel strongly about treating politicians with decency, kindness and courtesy and playing the policy, not the man or woman. It would be nice if those of us who are foolish enough to raise our heads above the parapet received the same kind of treatment.

I was asked a question about fathers, family members and regret. The biggest systematic review that has ever been carried out produced two very interesting insights. First, it indicated that investigating the impact on fathers or families was outside its scope. The Deputy said the voice of the woman in crisis is missing. I hate it when people say men do not have an input because lads have a huge input into pregnancy. It is important we take that into account. Second, the review could not cover the issue of regret.

I must respond to Senator O'Keeffe because she addressed me directly. The quote in the submission is taken, slightly adjusted, from the book, *What About Us? An Open Letter to the Mothers Feminism Forgot*, by Maureen Freely, who is a pro-choice writer in *The Guardian*. It was she who wrote it is not the baby who ruins one's life, it is everybody else.

Ms Maria Steen: I would like to address the question raised by Senator Healy Eames regarding obstetricians and whether the 1861 Act is legally adequate to preserve life and offer flexibility. The question of what constitutes a substantial risk was raised by the master of the National Maternity Hospital during the course of the hearings. The legal test at present is whether there is a real and substantial risk to the mother. It should be borne in mind that the law is not capable of reducing the assessment of risk to a statistical risk and, indeed, it would be dangerous to do so for doctors and, obviously, for women and their babies. The assessment of risk has to be carried out by a clinician in light of his or her knowledge of the circumstances of the particular patient presenting. The test requires that the risk be real, not hypothetical, and substantial, not insubstantial or trivial. Subject to these requirements, the test affords considerable flexibility to doctors. It is a simple test and it is left to the doctor acting in good faith to judge the situation. This flexibility is demonstrated by the absence of prosecutions under the

1861 Act. There is, however, a significant rider to the effect that the termination must be the only means of saving the life of the woman. That is important to remember as legislators. Furthermore, under Irish law the unborn child is recognised as having an equal right to life to that of the mother and the vindication of that right requires that no effort should be spared to save the life of the baby without endangering the life of the mother.

In regard to the X case, the Supreme Court was constrained by the particular facts presented. The State did not present countervailing evidence and the court was not free to ask for further evidence of its own volition. The Oireachtas is not so constrained and in light the amount of information that has been published, including the international studies rehearsed by other speakers, about the increase in risk of suicide following an abortion relative to the increase in risk from giving birth, it is important that the Oireachtas does not confine its deliberation to the terms of the X case alone.

Mr. David Manley: I will be as brief as possible in making clear the distinction between a necessary medical intervention for a woman who faces a serious risk to her life where the child dies and what is commonly called an abortion. There is a huge difference between the 30 cases that occurred in Irish maternity hospitals and what takes place in an abortion clinic in London.

The intention of the abortionist is simple. It is to kill the child. The intention of an obstetrician in a maternity hospital is to save the life of the mother and, if at all possible, the life of the child. The intervention of the obstetrician in a maternity hospital is necessary. If nothing is done, the woman may die. The intervention has to be quick, accurate and effective. In the case of the abortionist, an elective abortion is something that is not necessary. It is chosen, sought and paid for. An obstetrician will treat the ill mother for certain ailments, such as heart trouble or cancer. That is the same type of treatment given to a woman who is not pregnant. If the woman has cancer of the womb, whether she is pregnant or not, the same type of treatment will be given. The abortionist in London will not give the treatment that he gives to the pregnant woman to a non-pregnant woman. It does not make sense. One is dealing morally, and it should be legally, with two very different things. I hope, if there is legislation, that this is made quite clear.

Chairman: I call Mr. Carr, who has two and a half minutes.

Mr. Patrick Carr: It is clear I will not get to answer all the questions that have been asked, and I apologise to those Senators and Deputies whose questions I do not reach. I would certainly be happy to engage with them after the conclusion of these hearings, if that is helpful to them.

Several members raised the question of the authority of the Supreme Court, including Deputies Ó Ríordáin and Durkan and Senator O'Keeffe. We do have a precedent for a case where a decision of the Supreme Court was considered to create such difficulties that it was necessary to have a referendum to reverse it - it was in regard to the law on adoption - so it is not unheard of that the court would make what would generally be considered to be at least an unhelpful decision. We should bear in mind too that there is an even higher authority than the Supreme Court, namely, the people. We have had cases where decisions of the people have been reversed by subsequent referendum, usually on the basis that the initial vote did not accurately represent the people's wishes. That is something else worth bearing in mind.

On the question of lobbying that Deputy Ó Ríordáin raised, I would certainly echo what Ms Breda O'Brien said. It is extremely important that those who lobby their elected representatives do so in a respectful and courteous manner. I am sure, as elected representatives, the commit-

tee members welcome hearing from their constituents and knowing what their concerns are. I would urge anyone who contacts them in regard to this issue to do so in a respectful fashion. I believe some of the comments we have seen in recent times, particularly on social media, have been utterly appalling. I would point out, however, that many of these are coming, if one likes, from the other side of the argument.

Chairman: It is from both sides of the equation. As someone who uses social media, I can say it is both sides.

Mr. Patrick Carr: I would have no hesitation in condemning it from whichever side it comes. I would be unequivocal on that point.

Dr. Eoghan de Faoite: I begin by saying that, yes, I am a democrat. I believe in the democratic process and I respect it. Two questions were directly raised about the recent international symposium on maternal health care that I was directly involved with and about the declaration that came out of that. Members wanted further elaboration. On 8 September last, a symposium on maternal health was held in Dublin. It was chiefly organised by Professor Eamon O'Dwyer of the National University of Ireland, Galway, who is one of Ireland's most senior obstetricians and has an absolutely impeccable track record of obstetric care. That symposium was addressed by international experts in the field of maternal health care, emergency obstetrics and cancer in pregnancy. We had the world's leading expert in cancer in pregnancy, Professor Frédéric Amant from Belgium, come to address that conference, which was extremely well attended, with over 160 medical practitioners attending.

At the end of that symposium a declaration, which is now commonly known as the Dublin declaration, was released. I will not read it in its entirety but it has three main points. The first point is that abortion is never medically necessary - the direct and intentional termination of the life of the unborn child is not medically necessary. Second, there is a fundamental difference between abortion and emergency treatment or any other medical treatment a woman may need to save her life. Third, the prohibition of abortion does not affect, in any way, the availability of optimal care to pregnant women. That declaration has been released in the past few weeks and, to date, 400 medical practitioners have signed up in support of that declaration.

Somebody mentioned the dismissive way Dr. Rhona Mahony addressed this declaration earlier in the week. I want to point out that, with regard to two of the signatories of this declaration, one is a former predecessor of Dr. Mahony as master of the National Maternity Hospital, Holles Street, and the second is a current professor of obstetrics in that hospital. This only draws the conclusion that there is disagreement on what Dr. Mahony addressed to the committee earlier in the week.

I want to raise a point that was addressed directly to me and the group I am here to represent. I believe the young people I work with in Youth Defence do everything they can to save babies from being killed through abortion, and they do so in a perfectly normal way. I do not think their campaigns are in any way abhorrent-----

Deputy Ciara Conway: That is------

Chairman: Order, please.

Dr. Eoghan de Faoite: I believe the people who work in pro-life, particularly certain young people, are subjected to abuse on social media, including from very senior people in the Labour Party and including the director of elections from Cork, Keith O'Brien, who recently tweeted

that anybody involved in Youth Defence should be punched in the face-----

Chairman: I am sorry, Dr. de Faoite. We will not mention names of those who are not here in the House and are not Members. Please do not name people who are not present.

Dr. Eoghan de Faoite: That is fair enough. I just want to point out it is a myth that all of this kind of social media bullying, etc., is coming from one side. I have been subjected to much abuse on social media and I want to-----

Chairman: To be fair to myself, as Chairman, we did not say it was coming from one side. It is coming from both sides.

Dr. Eoghan de Faoite: That is fair enough.

Chairman: I would make the point respectfully that, in my humble opinion, your campaigning methodology needs to be reviewed, as somebody who is very moderate on the whole issue.

Dr. Eoghan de Faoite: I would have to disagree.

A Member: Some of it was appalling.

Chairman: I call Dr. Seán Ó Domhnaill.

Dr. Seán Ó Domhnaill: I think the dignity of these hearings has just been impugned by both yourself, Chairman, and the member behind me. There should have been a maintenance of the level of respect-----

Chairman: There is.

Dr. Seán Ó Domhnaill: -----which has continued up until this time.

Chairman: The Chair is respectful of all sides of the debate.

Dr. Seán Ó Domhnaill: The Chair has not been respectful.

Chairman: I disagree.

Dr. Seán Ó Domhnaill: The Chair has just accused one organisation-----

Chairman: Thank you. Answer the questions you have been asked.

Dr. Seán Ó Domhnaill: ----- of lobbying in an inappropriate manner, and should not do so.

Chairman: Thank you. I am entitled, as Chair, to make an opinion on a question that was asked. I have defended all members and all sides of the debate here. In my humble opinion-----

Dr. Seán Ó Domhnaill: You turned this, at the very end, into an adversarial encounter.

Chairman: No. Answer the question, please.

Dr. Seán Ó Domhnaill: I am going to answer the questions in regard to why it was, after what we believed to be an absolute ban on abortion in Ireland going back to 1983, that the day after that referendum was passed in 1983, Mary Robinson, when addressing abortion campaigners at the time, reassured them that, despite the fact they had been well beaten in that referendum, they should not worry because abortion would be legalised in Ireland by the European

courts within 15 years. Obviously, her 15 years was wrong, but it would appear as though the current Government is trying to impose abortion through using a non-binding recommendation of the European Court of Human Rights.

The second point is that, in terms of lobbying techniques, to a large degree, most groups will lobby depending on the seriousness of the issue they are dealing with. We are dealing with one of the most serious issues there is. After the Second World War, when people looked at what was seen in the death camps, pictures were shown, and continued to be shown all over the world, of corpses piled upon corpses piled upon corpses, because they said we must make sure this never happens again. If one believes, as the vast majority of people in this country do, that abortion involves the killing of an innocent human being then, if one does not like the reality of it, do not legalise it.

Chairman: Thank you. Although we are well over time, I will allow some brief contributions.

Senator Fidelma Healy Eames: I want to ask Dr. Ó Domhnaill to answer my question with regard to assisting the 19 year old suicidal woman he spoke about in his evidence to this hearing. What type of framework is he recommending that we put in place so we can best provide for that suicidal woman?

Deputy Marcella Corcoran Kennedy: To clarify the EWTN comment I made earlier, I wish to advise Ms Simons that she ought to take a look at it. Not only is she on it, there is a comment on the end of it thanking her for contributing to the "Life Crisis in Ireland" programme. I believe my question is relevant in regard to whether there is an agreement that agents of the culture of death are attempting to have abortion legalised in this country. I believe it is a very valid question.

Senator Jim Walsh: Would the witnesses agree or disagree with me that protection for the unborn is the real human rights issue of our day?

Chairman: I would ask respondents to be very brief.

Ms Caroline Simons: I was not aware I was on EWTN. I do not know any agents of the culture of death, I hope. Certainly, they have not identified themselves as such to me. That is not to say I do not believe that there are interests within and outside Ireland who are trying to influence the debate here who would favour the legislation of widespread abortion.

Dr. Eoghan de Faoite: I agree with Senator Walsh that abortion claims more innocent human lives than any other human rights violation my generation has seen. I echo his sentiment that it is one of the most important human rights issues of my generation.

Mr. David Manley: Between 200 and 150 years ago, the rights of persons of different colour from Africa was the supreme human rights issue. Today, it is the unborn.

Ms Breda O'Brien: I see it as one of a number of important issues which are all of a piece, including opposition to the death penalty and war, provision of aid and justice, in particular for girls, in the developing world. We should all support those principles. The right to life of the unborn and the care and protection of women are part of that.

Chairman: I thank the witnesses.

Senator Fidelma Healy Eames: I did not get an answer to my question.

Dr. Seán Ó Domhnaill: In 1992, I made it very clear that a substantial number of women were suffering with post-abortion psychological problems. I indicated at the time that it was essential to provide post-abortion counselling. The IFPA argued at the time that there was no such thing as post-abortion psychological sequelae but six years later opened its first post-abortion counselling centre in Cathal Brugha Street.

Chairman: I thank the witnesses for attending. They have helped inform the debate. I wish Ms Steen well with her new arrival. I thank committee members for their courtesy and patience. We will resume promptly at 2.45 p.m.

Sitting suspended at 2.05 p.m. and resumed at 2.45 p.m.

Action on X, Choice Ireland and National Women's Council of Ireland

Chairman: I remind Members and witnesses that mobile telephones should be switched off. That applies to those in the Visitors' Gallery and to the media as well. Everyone is very welcome to the tenth and final session in a series of hearings that the committee has conducted over the past three days to discuss the implementation of the Government decision following the recent publication of the expert group report on matters relating to the A, B and C *v.* Ireland case. At each session the committee has heard thoughtful, considered and wise submissions and counsel from a wide variety of people dealing with a sensitive and complex issue. I thank all those who have participated in our hearings for their constructive and informative deliberations.

For clarity, I wish to set out again the background and intended role which these hearings play in this important discourse. We are here to discuss the implementation of the Government decision, following the recent publication of the report of the expert group on matters relating to the A, B and C *v.* Ireland case, by way of legislation and regulation within the parameters of our current constitutional provisions. The Government has stated that the aim of its actions in this matter is to ensure clarity and legal certainty in respect of processes to determine whether the termination of a pregnancy is permissible in cases in which there is a real and substantial risk to the life, as opposed to the health, of a woman as a result of that pregnancy. In doing so we must ensure we take full account of Article 40.3.3°.

Once again I thank all the members of the committee and hope that in this final session our process of engagement will continue in a calm, tolerant and respectful manner, allowing for the various opinions we will hear. With that in mind I welcome most sincerely from Choice Ireland, Ms Jacinta Fay and Ms Abigail Rooney, from the National Women's Council of Ireland, Ms Orla O'Connor and Ms Jacqueline Healy, and from Action on X, Ms Ailbhe Smyth and Ms Sinéad Kennedy. They are all very welcome to our meeting this afternoon.

Before we commence, I remind witnesses of the position regarding privilege. Witnesses are protected by absolute privilege in respect of the evidence they are to give to the committee. However, if they are directed by the committee to cease giving evidence on a particular matter and they continue to so do, they are entitled thereafter only to a qualified privilege in respect of their evidence. They are directed that only evidence connected with the subject matter of these proceedings is to be given and they are asked to respect the parliamentary practice to the effect that, where possible, they should not criticise or make charges against a person or persons or an entity by name or in such a way as to make him, her or it identifiable. Members are reminded of

the long-standing parliamentary practice or ruling of the Chair to the effect that they should not comment on, criticise or make charges against a person outside the House or an official either by name or in such a way as to make him or her identifiable. I ask permission from committee members to allow party spokespersons to address the committee briefly after our deliberations. Is that agreed? Agreed. I call Ms Abigail Rooney from Choice Ireland to begin.

Ms Abigail Rooney: Choice Ireland thanks the committee for this opportunity to put forward the voices of the young women of Ireland at reproductive age who will be the most affected by this legislation. We congratulate the Government on finally commissioning a report on this and assuring the Irish public that legislation and regulations will be implemented in a timely manner. We also congratulate it on the success of the hearings over recent days which we hope will encourage future dialogue on the wider issues such as rape, incest, health and fatal foetal abnormalities.

Choice Ireland is a Dublin-based feminist pro-choice group which has been active since January 2007. We are a volunteer-run organisation campaigning for free access to accurate information on all crisis pregnancy options, proper sex education, free access to quality child care and free and legal abortion. We have been campaigning since our foundation for legislation on the X case and welcome the Government's decision to address this issue after 21 years of successive Governments failing to do so.

Statistics from the UK Department of Health suggest that 4,149 women provided Irish addresses to UK clinics providing abortion services in 2011. In addition, statistics compiled by the crisis pregnancy programme indicate that 1,470 women travelled from Ireland to the Netherlands between 2005 and 2009 to terminate their pregnancies. In addition, seizures made by the Irish Medicines Board suggest that many Irish women terminate pregnancies within the State by ordering medication over the Internet, which is an incredibly risky situation for these women who have resorted to self-medication.

At present, abortion is illegal in Ireland save in cases where there is a real and substantial threat to a pregnant woman's life which may only be addressed through the termination of her pregnancy. This right was established following the 1992 Supreme Court ruling in Attorney General *v*. X and Others. However, no legislation has been provided to give effect to this right. Two subsequent referenda in 1992 and later in 2002 attempted to remove suicide as a potential ground to terminate a pregnancy but both were defeated. Since then, no known cases have arisen from suicidal ideation, and one can only assume that due to this lack of clarity in Irish law many women will choose to travel abroad to terminate their pregnancies rather than face the Irish legal system.

In 2010 the European Court of Human Rights ruled that Ireland was in violation of the European Convention on Human Rights as women had no mechanism to allow them establish whether they had a right to an abortion in the State under the terms of the X case. The grounds under which abortion is allowed under the terms of the X case are strictly limited and would likely affect only a very tiny proportion of the thousands of Irish women who terminate their pregnancies every year for a multitude of valid reasons. Choice Ireland welcomes the Government's decision to legislate for the X case, but it is important to be cognisant of the fact that abortion access will continue to be strictly limited and will remain one of the most restrictive regimes in the world.

It is also important to note that legislating for the X case will not lead to a legal situation similar to that in the UK. UK abortion legislation allows for abortion in cases where there

is a grave risk of physical or mental injury to a woman, and injury as opposed to death is the crucial difference. Our Constitution gives the foetus an equal right to life as the woman and it would simply not be possible to legislate for abortion in terms of physical or mental injury in this country, save for circumstances where such injury led to a substantial risk to the life of a woman. Further constitutional change would be required to do so. In saying this, our Constitution still does not recognise a woman's right to a termination in cases of rape, incest, fatal foetal abnormalities, health or any other of the multitude of valid reasons abortion is legal in the vast majority of other developed nations.

Let us again consider the case that has brought us here today, which involved a 14 year old girl pregnant as a result of rape. Incredibly distressed and preferring to end her own life rather than be forced by the Irish State to continue with her pregnancy, she took her case to the Supreme Court to have her constitutional rights vindicated, and won. We are here today, 21 years on, to discuss what processes and procedures should be in place to ensure that when the life of another pregnant woman is in jeopardy, be it due to physical ailments or a risk of suicide, that her constitutional right to a termination is vindicated. Choice Ireland agrees with the European Court of Human Rights that women should have an effective means to access their human right. This is potentially a very distressing process for a woman to go through, and any procedure put in place to measure whether her life, as distinct from her health, is at risk, must be compassionate towards the patient and consider each case in a respectful and timely manner.

Ms Fay will go through some of our recommendations.

Ms Jacinta Fay: The expert group report offers a number of options regarding the qualifications of doctors involved in the process. Limiting the number of doctors eligible to determine risk to life to those on the specialist register may unnecessarily restrict the number of doctors available to make such determinations and therefore reduce women's access to a termination. Choice Ireland recommends that medical practitioners eligible for specialist registration, but not actually registered, be allowed to make determinations regarding risk to life. This option balances the necessity for doctors to have the necessary expertise to make determinations with ensuring a sufficiently wide pool of practitioners is available to ensure women have access to terminations.

Choice Ireland agrees with the statements of the master of the National Maternity Hospital that a multi-disciplinary approach should be implemented, using the skills of the necessary experts. Choice Ireland recommends that where practical, the determination should be made by doctors who are already involved in a woman's medical care and the number of doctors required as signatories should be limited to two to reduce the potential stress associated with the process. In addition, this option avoids limiting access to terminations for women in areas where a wider pool of experts is unavailable. The expert group report proposes that in cases where a woman's life is in jeopardy due to a threat of suicide three opinions be sought, namely, those of an obstetrician and two psychiatrists. Choice Ireland recommends that in such cases two opinions should be deemed sufficient. This would avoid the risk of stigmatizing women through the differential treatment of physical and psychiatric threats to life.

To avoid delays occurring in cases where there is an immediate threat to a woman's life and it is not possible to secure medical opinions following normal procedure, emergency provisions should be clearly laid down to allow doctors treat women in these situations.

The expert group recommends that, "to defend and vindicate the right to life of the unborn, terminations at the fringes of viability, even when survival is not anticipated, should take place

in medical facilities which have neonatal intensive care units, and carried out at such a time and in a manner as to maximise the foetal chances of survival, without compromising the right to life of the woman". It is important that this provision does not reduce women's access to terminations, particularly in cases where a woman is being cared for in a facility which does not include a neonatal intensive care unit and compelling her to travel to access a termination would pose additional risks to her health.

Choice Ireland recommends that in cases where a woman is denied access to a termination in the first instance any appeal is carried out by a medical rather than a quasi-judicial review panel to reduce the stress placed by the process on her. Women seeking a termination should be provided with access to independent legal support in addition to access to a detailed explanation of the grounds under which her initial application was refused. This would ensure that in cases where a woman feels her request for termination was refused following a failure to follow due procedure that recourse is available to highlight this concern. We would also be cautious that any appeal process should be specifically established for the woman concerned and not for a third party. The expert group notes that while legislation does not undermine a woman's existing right to appeal any decision through the courts, a number of options exist regarding how this could be affected. To ensure a decision is made promptly it would be desirable to put in place specific rights to appeal to achieve a timely resolution.

Practitioners have a right to conscientious objection and the expert group report notes that doctors who hold such an objection have a "duty to refer to another doctor who is not a conscientious objector". In an emergency situation however, conscientious objection should not delay or prevent a woman from receiving treatment in cases where another doctor cannot be found to carry out the procedure.

The expert group report suggests that statistics are required to inform policy, as well as to ensure the principles and requirements of the system are upheld. These statistics should be freely available to the public and civil society. Due to the stigma surrounding abortion in Ireland and in order to prevent any potential pressure being brought to bear on physicians who carry out such illegal abortions, care should be taken to protect the privacy of women who request terminations and the treating physicians.

Our final recommendation is on whether there is a need for new legislation as opposed to an amendment of the 1861 Act. The European Court of Human Rights judgment in A, B and C *v*. Ireland noted that the Offences Against the Person Act 1861 represented a significant chill factor for physicians. We recommend a repeal of sections 58 and 59 of that Act so that women in crisis pregnancies and physicians carrying out their duties in good faith do not face possible penal servitude.

Everyone wants to see a reduction in the number of abortions, as no one should ever be faced with that decision, but the criminalisation of women who wish to obtain abortions is not the answer. The only effective and compassionate means of reducing the overall demand for abortion is by providing free and easily accessible contraception and fully comprehensive sex education alongside a strong social system that supports the women and men of Ireland in caring for their children with dignity and respect.

Chairman: I thank Ms Fay. I call Ms O'Connor of the National Women's Council of Ireland, NWCI. She has ten minutes.

Ms Orla O'Connor: I thank the committee for inviting the NWCI to present to it. The

NWCI is the national membership organisation of women's groups and women. We comprise more than 160 member organisations representing a wide and diverse range of women's groups throughout the country. Our mission is to achieve women's equality by empowering them to work together for the removal of structural, political, economic, cultural and effective inequalities.

The NWCI welcomes the Government's announcement on the introduction of legislation and regulation in respect of abortion, as recommended by the Government's expert group. We recommended that this was the only way to give effect to the judgments in the 1992 X case in the Supreme Court and the A, B and C *v*. Ireland case in the European Court of Human Rights. We welcome this opportunity to contribute to the discussion on the forthcoming legislation.

We will make four key points. First, the NWCI has worked on the issue of abortion for more than 30 years. Our position on abortion has developed over time in recognition of the diversity of women's views and perspectives on the issue. The NWCI is well placed to make a considered contribution to this debate and we have been mandated by our vast and diverse membership to adopt a pro-choice position. This position is rooted in an analysis of gender equality and women's human rights.

Recently, the NWCI led an online campaign to legislate for the X case. Some committee members will be aware that more than 72,000 e-mails were sent to Deputies in every constituency by more than16,000 women and men. We have the support of our membership in calling for the provision of abortion in certain circumstances, particularly where a woman has a life-threatening pregnancy, including the risk of suicide. This support has also been reflected in recent opinion polls, which reveal that 85% of the population supports abortion where the woman's life is threatened, including by suicide. Irish laws are clearly out of step with public opinion and the time has come to introduce legislation as a matter of urgency to provide access to abortion services in Ireland.

Our role is to give voice to the experiences of women who remain largely voiceless in this debate due to the stigma surrounding abortion in Ireland and to support women's access to reproductive health.

The legislation must immediately repeal sections 58 and 59 of the Offences Against the Person Act 1861, which criminalises abortion in all circumstances. As the European Court of Human Rights observed in its judgment, the criminal provisions of the Act constitute a significant chilling factor for women and doctors in the medical consultation process regardless of whether prosecutions have been made. As the UN Special Rapporteur on the Right to Health stated during his visit to Ireland last month, criminal laws and other legal restrictions disempower women who may be deterred from taking steps to protect their health for fear of stigmatisation and to avoid liability.

Our members have reported to us that women accessing counselling services on their options in crisis pregnancy situations are terrified of the possibility of going to jail and feel like criminals. Even in accessing lawful information services, they believed that they may have been doing something criminal. It is unacceptable that an outdated and archaic law makes women feel this way. It is our opinion that abortion must be decriminalised if legislation and the regulation approach is to be accessible and effective and to remove the shame, stigma and discrimination that women must endure as a result of these criminal provisions.

Second, the NWCI advocates that the legislation must provide for regulations that allow

for a practical assessment by doctors and women of a real and substantial risk to the life of the pregnant woman. It must also provide for an accessible review framework to examine or resolve differences of opinion between a woman and her doctor or doctors. The legislation and regulation must place a duty of care on health service providers to ensure that women receive appropriate information and care, including post abortion.

The regulations must place a woman's right to reproductive autonomy at the heart of all procedures and services. This autonomy is reflected in the expert group's report in the chapter on the general principles that should apply to the implementation of the judgment of the European Court of Human Rights. It can be achieved by ensuring that the proposed regulations, procedures and services created by them undergo a gender mainstreaming process so that they are gender sensitive to the particular needs of women and respect the capacity of each woman to make decisions concerning her own reproductive health. The gender mainstreaming of health policy planning and service delivery is a firm commitment by the Government under the national women's strategy, which will continue until 2016.

Furthermore, it is important that all reproductive health services be physically and financially accessible to all women without discrimination. Over the years, our members have communicated to us the lack of agency that women feel while accessing reproductive services. It is crucial that women be active participants in terms of their reproductive health in conjunction with their doctors.

The legislation and subsequent regulations must cover the threat of suicide as a real and substantial risk to the life of the mother. There are cases in which the risk of suicide would constitute grounds for abortion and women must be viewed and trusted as individuals having agency who are capable of making considered decisions about their reproductive health. Proper and fair medical assessment procedures should be in place to assess whether the risk of suicide constitutes a real and substantial risk, as provided for in the X case. It is insulting to women and people with mental health difficulties for groups to claim that women would be likely to fabricate suicidal tendencies in an effort to seek access to abortion in Ireland. The legislation and regulations should reflect the fact that there have been and will continue to be cases in which crisis pregnancies trigger, or aggravate, existing mental health conditions.

As a matter of urgency, the NWCI asks the Government to implement legislative measures that will decriminalise abortion, cover the situation of life-threatening pregnancies, including the risk of suicide, and place women's reproductive autonomy at the heart of all procedures and services. In these discussions, it is also important to acknowledge that introducing legislation to give effect to the X case will make Ireland's abortion laws and practices some of the most restrictive globally. For many of our members, particularly women who have had abortions as a result of fatal foetal abnormalities or rape, this legislation will not provide an answer. For the more than 4,000 women who travel to the UK and beyond ever year, Irish law will still provide no support or resolution.

The NWCI believes that achieving access to safe and legal abortion is critical. Women must be in a position to make personal decisions about their bodies and health care free from coercion, discrimination and threat of incarceration. Legislation to give effect to the X case is the urgent and outstanding issue and the NWCI urges the introduction of such legislation early this year.

Ms Ailbhe Smyth: Action on X welcomes this opportunity to make a presentation to the Joint Committee on Health and Children and to contribute to this public discussion on the issue

of legislating for abortion in Ireland. This is, in many respects, a historic event, not least for those of us who have been seeking to achieve reproductive integrity autonomy and choice for women in Ireland since the late 1970s.

Formed in 2011, Action on X is an alliance of groups and individuals, including Irish Choice Network, Choice Ireland, Irish Feminist Network, Feminist Open Forum and others, who call on the Irish Government to act immediately to implement appropriate legislation on the right to abortion in Ireland. I will now outline the current views of Action on X on the issue of abortion.

With its colleagues from Choice Ireland and the National Women's Council, Action on X calls for immediate repeal of sections 58 and 59 of the Offences Against the Person Act 1861, which criminalises doctors performing abortions and women who have them. Action on X agrees with the view of the European Court of Human Rights and Dr. Rhona Mahony of the National Maternity Hospital that the chilling effect of the 1861 Act is a significant impediment for women. We believe there is no good reason this punitive law cannot be repealed without further discussion or delay. To those who have said in this Chamber that there is no need to repeal sections 58 and 59 of the 1861 Act because no criminal charges are ever brought I would say, "all the more reason to delete these obsolete and redundant but still chilling clauses".

Next month marks the 21st anniversary of the Supreme Court ruling in the X case, interpreting Article 40.3.3° of the Constitution as permitting abortion where pregnancy poses a real and substantial risk to the life of a woman. Following the fourth expert group report on abortion in Ireland, Action on X welcomes the Government's decision to introduce legislation combined with regulation to implement the X case ruling. We welcome this decision as a necessary step required by the Constitution and also so as to ensure our compliance with the European Court of Human Rights ruling in the A, B and C *v.* Ireland case and with the European Convention on Human Rights. However, we are strongly opposed to any dilution of the already restrictive terms of the Supreme Court ruling in the X case and would emphasise that the new legislation must fully acknowledge that a risk of suicide due to unwanted pregnancy as determined by health professionals is grounds for abortion in Ireland. Action on X has been surprised of late by the readiness of some organisations to question or dismiss the Supreme Court ruling in X. Since when has it become acceptable in this country to dismiss, disregard or seek to tamper with the rulings of our Supreme Court or to ignore our duties and responsibilities under international law and human rights instruments?

Action on X is also of the view that legislation must make clear that preservation of the woman's life is prioritised in any clinical assessment on the need for a termination. It must acknowledge that while Article 40.3.3° requires that a risk to life be real and substantial, such risk to life does not have to be inevitable or immediate, as set out in the X case ruling. As regards implementing legislation quickly as a minimum basis for abortion law in this country, the framework for such legislation already exists in Deputy Clare Daly's Medical Treatment (Termination of Pregnancy in Case of Risk to Life of Pregnant Woman) Bill 2012. As such there is no excuse for further procrastination and beating about the bush in this regard.

In framing a law within the confines of Article 40.3.3°, we would ask legislators to acknowledge the real life truth that abortion is an every day fact of life for women in Ireland. More than 4,000 women and girls go every year to Britain and beyond for abortions. They do so because they cannot have an abortion here and for many different reasons. All of these women make valid and often difficult choices. Some choose abortion because to continue the pregnancy would damage their physical or mental health or, possibly, endanger or shorten their lives. Others do so because they have become pregnant following rape or incest or because of a

lethal fatal abnormality. I regret the group, Terminations for Medical Reasons, was not invited to make a presentation to the joint committee.

Article 40.3.3° of the Constitution is the source of inequality of access to medical treatment between women and men, as noted by the Minister for Justice and Equality, Deputy Alan Shatter, during the November 2012 debate on Deputy Clare Daly's Bill when he stated that legally, women are denied access to certain treatments such as abortion to protect their health whereas men face no legal denials to any treatment. This inequality is particularly acute for women who do not have the money or are too ill to travel abroad for an abortion. For these women, permanent damage to health or avoidable shortening of life may be the outcome. We believe this discrimination must end and call for an acceptance that risks to health are as equally valid grounds for abortion as are risks to the life of a woman, as recognised by the Labour Party in its pre-election promise of legislation is this domain. The blunt reality is that the restrictive terms of the X case ruling would exclude the large majority of women who leave Ireland for an abortion abroad. Action on X, therefore, calls for the repeal of the demonstrably unworkable Article 40.3.3° and for appropriate legislation to end inequality and meet women's actual needs.

Action on X supports the right of a woman to unfettered choice on whether to continue a pregnancy. We strenuously object to claims that the floodgates will open and that there will be an explosion of abortion in Ireland. We can predict with considerable accuracy that in the region of 4,000 to 5,000 women will seek abortions in Ireland annually. This would not be an explosion but consistent with our true abortion rate and comparable rates in many other countries. The difference would be that at last we would as a country be honest about the realities of women's reproductive lives, choices and needs. The change in culture feared by some previous contributors to these hearings has already taken place. During the past 30 years public opinion on abortion has changed profoundly. The RED C poll conducted at the end of 2012 revealed that more than 80% of the population now believe that abortion should be available to a woman where continuing a pregnancy would damage her health or would threaten her life and that 36% believe a woman should have the right to choose whether to continue a pregnancy. It has also been revealed in polls that the authority of the Catholic Church has significantly declined, some would say plummeted, during this period. For example, *The Irish Times* Ipsos-MRBI poll of June 2012 indicates that only 34% of Catholics attend mass at least once a week while the Contemporary Catholic Perspective survey of February 2012 reveals that 75% of the respondents do not believe that the teachings of the Catholic Church on sexuality are relevant to them or their families. Ireland is not only constitutionally but, it would appear, socially a manifestly secular democracy.

With these issues in mind, the public support for increased access to abortion for the women and girls who travel abroad for terminations for medical reasons to preserve their health or prolong their lives and the unequal access to medical treatments between women and men, the view of Action on X is that the new legislation must make access to abortion a real rather than theoretical right. I will finish with a quote from former President Mary Robinson following the Supreme Court ruling in the X case in 1992. When speaking about the deep crisis within ourselves she said: " I hope we have the courage, which we have not always had, to face up to and to look squarely and to say this is a problem we have got to resolve." Action on X shares the hope of former President Robinson.

Chairman: We now move to questions from members of the joint committee, in respect of which 60 minutes has been allocated. I call Deputy Billy Kelleher.

Deputy Billy Kelleher: I welcome the witnesses. We are dealing with the fall-out from the

X case on foot of Article 40.3.3°. As such, our deliberations in terms of what the Legislature can or is willing to do are confined. Those questions will have to be decided by Members of the Oireachtas following the introduction of legislation from Government.

On Article 40.3.3°, I assume the organisations accept that it is too restrictive and that its interpretation in the context of the X case means there will be, if Government legislates on this matter, only a limited number of abortions carried out in Ireland. It has been mentioned that in order to save the life of a mother up to 30 abortions per year are carried out in Irish hospitals. As such, the enactment of legislation as envisaged by Government will not result in any major change in terms of the numbers of abortions carried out in this jurisdiction.

On the broader issue of suicide, on which we have had much deliberation, views have been expressed by both members of the committee and witnesses that there is a concern about the interpretation of the threat to the life of the mother due to suicide. Psychiatrists have appeared before the committee who have clearly expressed the view that there is an ability by clinicians to assess the likelihood of suicide ideation. Equally, other psychiatrists have told the committee that it is not possible to do it with any degree of certainty. We must also listen to that view.

Even if we pass legislation there will still be more than 4,000 Irish women going abroad every year for an abortion. On the broader policy issue, is there any form of follow-up support to meet the needs of women who have had a termination outside this country in terms of after-care and health care, both physical and psychological? Regardless of what happens with this legislation, there will still be the issue every day of Irish women travelling abroad for abortion and returning here. Are there mechanisms in place, or should further mechanisms be put in place, to assist women who return to this jurisdiction after termination with both physical and psychological after-care? That question is on actual policy.

We are confined in what can be done. Some people welcome that because not everybody agrees that there should be a more liberal abortion regime in this country. However, there is an obligation on us to provide clarity for the medical professionals and women when women's lives are at risk. That is something on which all members of the committee agree. Repealing sections 58 and 59 of the Offences Against the Person Act 1861 would clearly take away the chill effect for clinicians in carrying out their duties, but I assume there would also have to be sanction to ensure there would not be backstreet abortions or other types of illegal abortion being carried out in the State. There should still be criminal sanction to ensure that abortions are carried out only in specialist hospitals by suitably qualified people.

Deputy Caoimhghín Ó Caoláin: I welcome the representatives. Many of the questions over the past three days have been repetitious. I have tried to find something different in each of the contributions and I believe I have found one or two matters on which the witnesses might elaborate. In Choice Ireland's recommendations, No. 3.1 refers to qualifications of doctors involved in the process. Choice Ireland recommends "that medical practitioners eligible for specialist registration, but not actually registered, be allowed to make determinations regarding risk to life." Will the representative elaborate on that and explain why she believes the 18,000 medical practitioners registered with the Medical Council are insufficient to provide the service in all the situations that could present? What does she believe can be achieved by those who are not eligible? There was an interesting witness before the committee yesterday who is a practising barrister. He is also entitled to be a registered member on the Medical Council register. Is it suggested that he would have the opportunity to make such a determination?

I thank the National Women's Council of Ireland for its presentation. It highlights a very

important point. Much of what we are addressing is in the area of equality and fairness. The representative said it is important that all services are physically accessible, which many have addressed, and financially accessible, which the representative uniquely pointed out. This is an unequal society. The publication of the Health Service Executive service plan today has signalled that there will be 40,000 fewer people with medical cards this year. How does the National Women's Council of Ireland suggest that there will be equality of access to whatever range of treatments and supports that women might require?

Finally, Deputy Kelleher already raised the phraseology relating to the immediate repeal of sections 58 and 59 of the Offences Against the Person Act 1861. Surely they must also require replacement. We cannot have a vacuum or void whereby illegal abortions in a changed situation would be allowed to take place unchallenged and without appropriate sanction.

Deputy Seamus Healy: I welcome the witnesses and their submissions. As Deputy Ó Caoláin said, many of the questions here are repetitious and the newer ones - the question of eligibility and the issue of the 1861 Offences Against the Person Act - have already been identified by Deputy Kelleher and Deputy Ó Caoláin. Will the witnesses clarify if their groups support the expert group report's recommendation of legislation and regulation as the preferable procedure? There has been a suggestion with regard to suicide that women would manipulate their doctors. Will the witnesses comment on that?

The question of appeal and review has been raised in the submissions. Will the witnesses clarify and expand on that, particularly on the time element and the timeliness of any review procedure?

Finally, we have received recommendations in the past few days, particularly from some of the legal representatives, suggesting that the issue of fatal foetal abnormality could and should be dealt with in this legislation. Will the witnesses comment on that?

Deputy Ciara Conway: I thank the witnesses for their presentations. Many of the questions I wished to ask have been asked by my colleagues. However, perhaps the witness would elaborate on something from Choice Ireland's presentation. It is the statistic quoted from the UK Department of Health statistics which suggests that over 4,000 women provided Irish addresses to UK clinics providing abortion services in 2011. There was another flip-flop in this regard in the previous presentation. We were told that a freedom of information request was sent to the Department of Health in England and it yielded the information that no Irish women were sent to abortion clinics. I do not believe that to be the case but will the witnesses elaborate on that?

There is another issue which I thank the witnesses for bringing into the public discourse through their presentation. It is the suggestion from the Irish Medicines Board that many Irish women terminate their pregnancy by ordering a concoction of medication over the Internet. The Government must face up to that. What ideas do the witnesses have for combating that particularly dangerous procedure? Often, women in crisis can find no alternative to it.

Ms Abigail Rooney: I will try to go through the questions in order. The Deputy referred to 30 abortions taking place each year due to physical ailments. On the suicide issue, as a woman and equal citizen in this country I find it incredibly insulting that members seem to think I, or any other woman, would somehow manipulate a psychiatrist to allow me to have an abortion. We are equal citizens. We need to stop bringing that up, it is absolutely ridiculous and very insulting.

Is there any follow up for aftercare? The *European Journal of General Practice* states that when they come back from Britain, many women do not attend for aftercare with their Irish GP because they are ashamed and embarrassed as a result of the stigma that surrounds this issue. Often they present far too late with infection and bleeding. I am not a medical practitioner, a counsellor or a lawyer but this must be dealt with and I am sure there are procedures that can be put in place to do that. We are highlighting the plight of these women and trying to voice their opinions.

To avoid a woman being dragged through the courts if her initial request for a termination has been turned down, we must ensure a medical group deals with the case initially and then, if that fails, she should be able to go to the courts. Initially, however, because this is a time-sensitive matter, she should be able to appeal through the hospital she is in or medical centre she is attending.

There were questions about the qualifications of the practitioners. This was so that not only consultants could sign off on this. We may have got this wrong, I am not sure, I do not know the ins and outs of the registered practitioners, but decisions are specific to cardiologists if cardiology is involved. The master of the National Maternity Hospital tried to deal with that. If someone does not have a consultant post but has gone through the training, he or she should be able to sign off if no consultant is available. Perhaps, however, I am being naive in thinking that.

We support legislation and regulation as outlined in the report of the expert group. That is the best way to go.

I am not a lawyer so I cannot answer the question on fatal foetal abnormalities. Under our Constitution the foetus enjoys and equal right to life with the woman. If the foetus has not died in the womb, it would appear that we cannot deal with fatal foetal abnormalities at present, that we would have to have another referendum to deal with that. I have no idea where the statistics from Britain came from.

The question about the Irish Medicines Board shows that we must deal with this issue. Women in Ireland are not being treated with the dignity and respect they need to be treated with. They should not be self-medicating; these pills must be regulated. These online treatments are putting them at risk and we must do something about that.

The only way to reduce the number of abortions in this country, and they are happening, with most happening in Britain, is to bring in fully comprehensive sex education, free access to contraception, a strong social system and a recognition that we cannot criminalise women for this. Criminalisation is not the way forward. If people think they are saving lives doing that, they are wrong. The only effective way to reduce the number of abortions is to take the steps I just outlined, not to criminalise women or physicians. We must regulate this as soon as possible. It cannot be done without a referendum but we should ask the people.

Ms Orla O'Connor: In response to Deputy Kelleher, that was the point I was trying to make about the legislation being limited. We are talking about the X case and where there is a risk to the life of a woman. The number of cases involved is small and in our view it will not help the vast majority of women who are travelling to Britain. We absolutely recognise that and it is why we think that while the legislation is urgent, we must take our heads out of the sand about abortion in Ireland.

Much of the discussion has related to suicide but we must remember that was the basis of

the X case. In some ways, there is no choice about including it or not, it must be done because that is what the judgment stated. Deputy Healy asked about the manipulation of doctors. Even since these hearings started, and before in the campaign run by the women's council, one of the things that has come across is that women must be trusted and the medical profession must be trusted. From our perspective, and from the stories we have been told by women, thinking about having an abortion and going to have one is a very difficult decision; it is surrounded with difficulty and stigma, as is mental health. The notion that women will suddenly want to do this is appalling and it is insulting to women.

Post-abortion care has come up with our members and with those women who have contacted us. A huge problem around post-abortion care is that for so many women, they do not want to admit to having an abortion. They do not tell their families or friends; often they only tell the person who is travelling with them. Accessing services is a real difficulty and part of that relates to the removal of the stigma and the decriminalisation of this area. We must create a completely different environment around abortion so women can go and seek help and seek post-abortive care, even in terms of the services as they currently exist.

Deputy Ó Caoláin asked about services being financially accessible. This is an important point and it was raised by Mr. Anand Grover, the UN rapporteur on the right to health. Following the legislation and regulation, the Government must then provide within the universal health care plans and service plans within the HSE that economic hardship does not act as a barrier. This must be given consideration.

The National Women's Council absolutely supports the recommendation in the report of the expert group for legislation and regulation.

Deputy Conway asked about women accessing medication over the Internet. This issue was raised by CEDAW, it is very important and it goes back to the wider issue about fear and stigma about seeking help. Some of our members have told us about the fear that exists about even seeking information about travelling. That is a constant issue. Part of the reason that is happening is because women do not feel comfortable about travel or their own situation.

Ms Ailbhe Smyth: The best way to ensure there would be no back-street abortions and that there would be sanctions against those who try to provide such services would be to legislate for safe abortion services in this country. At the end of the day, that is the reasonable answer to Deputy Kelleher's question and it is important we keep on making this point. We have been saved to an extent from the excesses of the problems of back-street abortions by having the escape route to Britain for at least those women who could afford it. We cannot, however, and should not in all honesty as a society continue to do this. This is a shameful exercise we are embarked upon so we must legislate for safe, legal abortion in Ireland. We certainly must decriminalise the doctors who are in the situation they have described to members in some detail in the past few days and those women who, sadly, could also find themselves criminalised.

I will make a brief comment on suicide which, as Ms Orla O'Connor has said, is specified in and is the heart of the Supreme Court ruling in the case of X. It is very important to underline yet again that Supreme Court rulings cannot be overturned on the basis of a change in view or attitude or on a whim. Furthermore, Supreme Court rulings are not *à la carte* menus where legislators and people can choose this bit or the other and say that we do not like this but we will take that. A Supreme Court ruling is a Supreme Court ruling and unless we are prepared to put in question the entire structure of the making of law and of order in this country we must respect and honour our Supreme Court rulings and the members of the Supreme Court who

make those rulings.

With regard to online medication, my answer would be very similar to that which I made to the legislative question. Safe, legal abortion and properly supervised good care services is what enables women not to have recourse to these perilous measures of seeking to self-medicate across the Internet with no guarantee, no regulation and very little obvious recourse if a difficulty arises.

In terms of the many questions that arise, it is as if we are saying that given that we cannot have legislation that would address the needs of women and the problem we are confronting, what can we do to get around it? What are the little dodges that we can have to get around these problems? The problem has been staring us in the face for 30 years, and I have some sympathy with Deputy Kelleher who said there are parameters to this committee and that there has been some repetition. There has been repetition for the past 30 years. Every decade a dramatic event, incident, problem or case has come up again and each time we try to push it under the carpet. For the first time there is an opportunity in this country to be direct, honest and to firmly grasp this particular nettle, which happens to be the lives and the health of women of childbearing age in this country, and say we will do what requires to be done to meet those needs and to meet our obligations as a society which cares about its citizens.

Ms Sinéad Kennedy: Regarding legislation for the X case, as my colleague, Ms Ailbhe Smyth has outlined, not only do we have the 1992 Supreme Court ruling in the X case but we also had a referendum in 1992 and a further referendum in 2002. In both referenda the electorate had the opportunity to exclude suicide as grounds for an abortion in Ireland and in both cases they refused to do so. Not only do we have a Supreme Court ruling but we also have the results of two referenda that support this ruling. What we have never had is an opportunity to vote for a more liberal abortion regime in Ireland, and opinion polls in the past two decades show that increasing numbers of people support a much more liberal abortion regime in Ireland.

On the question of back-street abortion in Ireland, we are fortunate in some regard to at least have access for those women who can obtain the necessary finances to travel abroad to Britain and to other European countries. There is some access to abortion for those women but we do not know how many women are unable to travel for various financial, family and other difficult reasons. We do know that in jurisdictions where abortion is illegal and where there are not other legal alternatives, women will resort to back-street abortion. We have seen in recent years, as outlined by my colleagues in Choice Ireland, that increasing numbers of women are accessing the Internet to obtain abortion pills.

Tightening up of laws and regulations will not prevent desperate women seeking desperate solutions. The only way to be sure that we can avoid the horrific scenario of unsafe back-street abortions is to legislate for free, safe and legal abortion. That is why when we talk about this legislation we have to see it as just the first step in providing abortion rights for women because there is a danger that we will have X case legislation and we can all say that is over for another decade or until the next woman finds herself dragged through the Irish legal system. This must be understood as a bare minimum, an emergency or temporary measure, but we must examine all of the other situations that our presentations have outlined and provide real care for Irish women.

Senator Colm Burke: I thank all of the guests for their presentations. Am I correct in interpreting them as saying that because of Article 40.3.3° regardless of what legislation is brought into place there will not be a huge change in current practice in Ireland? They might

clarify that because that is my interpretation of their presentation.

On the issue of doctors, the witnesses spoke about opening up the process and that it would not just involve qualified consultants. I seek clarification on that. Are they also talking about opening it up to general practitioners? If it is opened up in hospitals to non-consultants that will leave the hospitals wide open because all procedures must be signed off by medical consultants. I am not sure whether legislation can deal with that issue.

Regarding the changes that have occurred in Ireland in the past ten years, teenage pregnancies have decreased by 44% and the records we can get access to would also indicate that there has been a substantial decrease in the number travelling to the United Kingdom for abortions. What work do the witnesses believe we can do to try to further reduce those two figures in the next ten years?

Deputy Catherine Byrne: Many of the questions have been covered already. I will not ask any questions but just make a comment. I thank all the witnesses for their clear presentation. I thank them for their time also.

The general practitioners' book states that a doctor has the duty to provide care, support and follow-up services for women who have had an abortion in another country. That is very clear. It is sad to think that many women probably do not realise that and follow-up on that when they return from England. We may need to consider linking people to those services if they make themselves available.

I am not here to consider open abortion in Ireland. That is not my job here today. My job is to listen to all the different submissions presented in recent days and to find some balance in legislation that will help more people, although perhaps not hundreds, not to have to leave this country. That is something we have to consider.

The key issue for me is sections 58 and 59 of the 1861 Act which must be examined. We have to support doctors so that they do not have to keep looking over their shoulders, so to speak, to ensure what they are doing is legally right.

I do not have much more to add other than to say that as a parent of girls I believe that education in safe sexual practice not only begins in school but at home also. We have a duty as parents to guide our children regarding sexual activity and to let them know the risks involved.

Deputy Robert Dowds: I have one question to which there are two parts. Irrespective of one's view on the question of abortion, considerable numbers of women believe they have to make that particular choice.

To what extent is counselling available to women before and after an abortion? What is the delegates' general view on the question of counselling before a woman makes a decision on this issue?

Ms Jacinta Fay: On whether there will be a considerable change to current practice, legislating for the X case will bring about abortion only in extremely narrow circumstances. We would have one of the most restrictive abortion regimes in the world. In all likelihood, if a woman does not believe she can have an abortion under these narrow circumstances, she will travel abroad to have one. Therefore, it is fairly likely that the same number of women will be going abroad to seek abortions as are going now. I do not foresee a very considerable change.

With regard to the register of doctors, our point was that many doctors would have expertise, but perhaps in a hospital with no relevant consultancy post. Therefore, they might have relevant expertise but might not be on the register. It may be the case in smaller hospitals that may not have as wide pool of experts as exists in bigger ones. It is a case of having as much access as possible. This was our recommendation.

The decrease in the number of teenage pregnancies and the number travelling to seek an abortion is reflected in increased access to information, contraception and sex education. We must realise that the only real solution and means of decreasing the number opting for an abortion is access to free contraception and sex education, and free safe and legal abortion in this country. That is really the only solution.

With regard to aftercare, we have already discussed how many general practitioners have said women did not go to their doctor on time or seek aftercare because of the stigma associated with abortion. Therefore, it is more a question of changing people's attitudes towards abortion and the stigma.

Counselling and support for those experiencing a crisis pregnancy were referred to. It is vital that a woman has all the support she needs to make the decision that is right for her. Any provisions we put in place to allow for additional care for women making that decision would be welcomed.

Ms Orla O'Connor: The first question concerns whether the legislation would bring about great change. While the number of women who have abortions in Ireland may be small by comparison with the number who travel to have an abortion - the latter amount to over 4,000 - the legislation is critical if just one woman's life is at risk. This is very important.

Decriminalisation is important, as is the message it sends out. It would have a ripple effect, open up the discussion on abortion and make women feel more comfortable having that discussion and in seeking post-abortive care. While a small number may be affected, the legislation to be introduced is really important.

On the question on the decrease in the number of women travelling, my answer is similar to that of my colleague. The answer concerns the availability of services, including counselling services, which are really important. It is critical that as many supports as possible be in place to assist a woman in making a decision that is right for her. Part of the approach involves changing attitudes to remove the stigma currently attached to abortion in Ireland.

Ms Ailbhe Smyth: With regard to possible changes in practice, I agree very much with Ms Orla O'Connor. The legislation is obviously extremely important, not least in that it will provide some clarity and reassurance to medical practitioners. For that reason alone, it is crucial. It sends a signal and serves as recognition that abortions can, should be and are carried out in this country and that women need them. When considering changes in Ireland over the past ten or 12 years, one will note it is true that the number of women and girls going to Britain has been decreasing. Fortunately, the number of teenage pregnancies is also decreasing. However, we must bear in mind that abortion will need to be availed of by women for some time into the foreseeable future. Therefore, we need to provide for it. The best way we can do so is by maintaining and developing our investment in health education and promotion in regard to sexuality, reproduction and relationships.

The investment that the health service has made in seeking to combat the spread of AIDS

in Ireland has really been very effective and successful. While it would be quite wrong to state there is no longer any problem in this area, health promotion and education, which have been undertaken both in educational settings and communities, particularly the LGBT community, have been very effective. We have models for the education, promotion and awareness process that can be drawn on very readily. However, this requires the commitment of resources and a commitment to really addressing the problem to seek to ensure we can reduce, as far as is humanly possible, the need for any woman to have an abortion.

However, given the cases I have mentioned very briefly in my presentation - cases in which the abortion of a wanted pregnancy is required or desired for medical reasons, such as the tragic circumstances associated with fatal foetal abnormality, which will not be covered by the X case legislation - we really need to address the matter in this State matter of urgency.

Ms Sinéad Kennedy: Let me address the question of counselling. One barrier to access to post-abortion counselling is that abortion is criminalised in this State. Many women are aware that when they travel abroad to have an abortion or use the abortion pill, they are, in effect, doing something that is criminalised. This adds to the certain fear and stigma that might result in a reduction in the number of women who seek post-abortion counselling. Not every woman needs post-abortion counselling, however, as some women are quite happy with the decision they have made and believe it was right and valid for them.

The problem faced by women who do feel the need is compounded by the fact that there is such a considerable social stigma associated with abortion in the State. The services need to be regulated and expanded. One realises the need for regulation is very clear when one considers counselling for women before they travel abroad. I refer to crisis pregnancy counselling. Choice Ireland has done excellent work on revealing some of the so-called crisis pregnancy counselling services that bully or attempt to shame women when they choose to have an abortion. There are sometimes problems and confusion in that some counselling services may offer information on adoption and keeping the child but not on abortion. Sometimes it is not actually clear what services are available. Some women have experienced very distressing circumstances in that they found themselves bullied and attacked over their decision to have an abortion. There needs to be a lot more regulation around these counselling services. There also needs to be an acknowledgement that for some women abortion can actually be a positive decision and there is not the need for counselling.

Senator Fidelma Healy Eames: I welcome the panel. I agree with Choice Ireland on several points such as how dangerous the back-street clinics are for women and the pills that are not regulated that should be outlawed. However, what struck me today following three days of hearings is the danger of making decisions about legislating for X on the grounds of suicide in the narrow medical context only. It is absolutely vital that we look at the woman holistically. We must not just look at her medical condition but her social, family and relationship contexts, including her emotional and mental health. Does Choice Ireland agree with this and is it happy that Ireland will continue to retain a restrictive abortion regime?

I was disappointed with some of the claims made on the website of the National Women's Council of Ireland. It is a very high-profile organisation. First, it claims to be the voice of the women of Ireland which I dispute. Doing an arbitrary check among Members present, I note none of us is a member of the council. Second, the council claims that the recent high-profile death in Galway - which I will not name-----

Chairman: Please, Senator, do not. There are to be no references to it.

Senator Fidelma Healy Eames: -----is proof of the need for legislation to give effect to the X case. The council has no evidence for that. That is a very dangerous claim, one that is adding panic to this debate unnecessarily. We must deal with this debate in a logical and calm way because this is about deciding our future. This claim is also about promoting the council's own agenda. Will Ms O'Connor address this?

Ms O'Connor also said it is insulting to women not to believe them about the risk of suicide. I said earlier today that one of the failings of these hearings, of which there have not been many, is that no primary evidence has been given by women in crisis. Is it not more insulting and damaging to women to think that abortion will treat suicide when now we have far more evidence on this since 1993?

Senator Ivana Bacik: I thank the panel for their excellent presentations.

Senator Healy Eames did not check with me but Labour Women is actually affiliated to the National Women's Council of Ireland and I have personally had many dealings with it. Membership is usually confined to organisations affiliated to it and not individuals. I have attended some of its meetings and annual general meetings and I have found the council to be fairly representative of groups. I think Senator Healy Eames's criticism was unfair.

I thank the groups for expressing very clearly the needs of the women who travel every year for an abortion. I agree with Senator Healy Eames that the voices of the women who travel have been absent from these hearings.

Senator Marie-Louise O'Donnell: There are 150,000 of them.

Chairman: Can we avoid interaction between Members? We have had a tolerant and respectful debate up to now. I do not want it to descend into a Hill 16 episode.

Senator Marie-Louise O'Donnell: That is rather extreme.

Senator Ivana Bacik: I like the Hill 16 reference.

Chairman: I like Hill 16 too and I have been there many a time.

Senator Ivana Bacik: This panel has given us a reality check. However welcome and overdue the legislation we are debating, it will clearly not meet the needs of the majority of women travelling for abortion every year. I agree with Ms Ailbhe Smyth that the change in culture has already occurred. Introducing legislation for the X case will not change the culture. The legal position will remain the same. We are simply making accessible and effective a legal procedure that is already available in theory through the Constitution and the Supreme Court decision in the X case. The political culture in terms of public opinion has clearly changed as opinion polls show.

I am glad it was pointed out that decriminalisation could be achieved through repealing sections 58 and 59 of the Offences Against the Person Act. Such a move would reduce the stigma for women as well as reducing the effect for doctors. Is amendment sufficient or would it have to be repealed entirely?

The panel is aware that independent legal experts and the Irish Council for Civil Liberties suggested legislation on the X case could, within the terms of the Constitution, cover fatal foetal abnormalities. Does the panel agree with that?

Senator Michael Mullins: I welcome the witnesses and it has been a very informative session. I support Senator Healy Eames in saying that it is deeply disturbing that a tragedy would be used to promote a particular-----

Chairman: We are not going to mention that case.

Senator Michael Mullins: I will not. It is unfortunate that dishonesty like that is being put on a website.

Chairman: Can we avoid using words such as that? The language we use must be temperate, respectful and moderate.

Senator Michael Mullins: I urge Choice Ireland to look at its website too. In its founding documents section, it categorises pro-life groups, which were here earlier and gave respectful presentations to the committee, as an anti-choice movement which it states is primarily a religious one that goes hand in hand with an anti-contraceptive, anti-sex education position and is homophobic. Why is it necessary for Choice Ireland to use such deeply offensive language to describe people who disagree with it?

Chairman: We are not really debating websites. I thank the Senator for his contribution. I call Senator Bradford.

Senator Paul Bradford: I welcome the panel. I would be obliged if the individual groups would respond to my observation that the medical experts who presented here this week to a man and to a woman said that to the best of their knowledge, there has been no death in this country due to a lack of medical intervention. Do the groups agree or disagree with this?

Action on X helpfully provided a timeline which contains the 1997 case of Miss C. Does Action on X accept and agree with Miss C herself that what was done to her and the forced abortion she had to endure has caused her life to be ruined and that she regrets it? Is it something on which we should reflect? I am sure Action on X is aware of her interview on RTE radio with Pat Kenny.

I have asked for a respectful debate and I have tried to listen to every shade of opinion. However, Choice Ireland's website describes the anti-choice movement as being hand in hand with an anti-contraceptive, anti-sex education and homophobic position. I just want to put on the record that I am not anti-contraceptive, anti-sex education or homophobic.

Chairman: Thank you, Senator.

Senator Paul Bradford: I resent and am insulted by the comment on Choice Ireland's website. I ask the organisation to withdraw that juvenile, pathetic, irrelevant section on its website. It does not add to the debate in any respect.

Ms Abigail Rooney: First, I shall cover that issue. I never brought that up in this debate. That is the Senator being juvenile to be quite frank.

Chairman: Sorry, can we avoid-----

Senator Paul Bradford: Does Ms Rooney disassociate herself from that position?

Chairman: I will chair the meeting. Will Senator Bradford resume his seat?

Senator Paul Bradford: I just wanted to ask her to dissociate herself from her own web-

site.

Chairman: Can Ms Rooney withdraw her remark and address them through the Chair?

Ms Abigail Rooney: I withdraw my remark.

Chairman: Can we have a tolerant and respectful conclusion to our hearings? We have had a very positive three days and it would be a shame for it to end like this.

Ms Abigail Rooney: It has been a respectful debate. There is no need to bring our website into this.

Senator Paul Bradford: Is Ms Rooney hiding behind her website?

Chairman: There is one Chairman of this committee and that is me.

Ms Abigail Rooney: The medical experts have said there has been no death due to the lack of medical interventions. I am not a doctor and I do not have the statistics. I trust doctors in this country. I am sure the women who would otherwise have died went to England. They deal with the women of Ireland compassionately whereas we do not.

Yes, there is a danger the X case is too narrow. However, it is what we are dealing with in our Constitution which does not allow for broader terms to be brought in.

I was not really sure what Senator Healy Eames meant by the social and emotional context of the X case.

Senator Fidelma Healy Eames: May I respond?

Chairman: On a point of clarification, Senator Healy Eames may briefly respond.

Senator Fidelma Healy Eames: A young woman or any woman who gets pregnant lives in a family. She is in a relationship. She may be under pressure to have an abortion. We have heard this evidence from other witnesses here today. There is the regret after the abortion, and she may end up feeling suicidal as a result.

Chairman: I thank Senator Healy Eames.

Ms Abigail Rooney: Choice Ireland never says that anyone should be forced into having an abortion - that is something that should never happen. That is a decision for the woman alone. That should never happen, but I am sure it does. There are social and emotional problems surrounding this issue. That was not the case with the X case.

Senator Fidelma Healy Eames: We do not know that.

Ms Abigail Rooney: That was not the case with the X case. She herself would have preferred to take her own life than to carry on with that pregnancy, but our State would have preferred to force her to carry her rapist's foetus to term. That is not what we are talking about today - not the social and emotional context.

Chairman: I thank Ms Rooney.

Ms Abigail Rooney: This is not a method of treating suicide. She was suicidal because she was raped and became pregnant from it and our country was going to force her to carry that foetus to term. That is why she was suicidal.

Indeed, in response to Senator Bacik, this will not meet the needs of most Irish women but, unfortunately, we are constrained by our Constitution. I would love to have another debate about the broader legislative interpretation or, indeed, a referendum.

The decriminalisation of women and physicians does need to take place. We cannot criminalise women for this. They are going to the United Kingdom anyway. If the Oireachtas really wants to criminalise women, why is it not stopping them from going to the United Kingdom? It knows this is going to happen. The Oireachtas knows that women are going to go and that deep down it is the wrong thing to do. Women should be able to make that decision.

On the using of a case as a tragedy-----

Chairman: Can we not make reference to any cases?

Ms Abigail Rooney: I am not making any reference.

Chairman: There is an investigation under way.

Ms Abigail Rooney: We are not using any cases as a tragedy. All of these cases are tragedies, particularly the X case. We need to deal with that right now.

Senator Paul Bradford: And the C case?

Chairman: I thank Ms Rooney and call Ms O'Connor.

Ms Orla O'Connor: I thank the committee members for their questions. To start with Senator Healy Eames's questions, I suppose the first thing to say - I said this at the start of my presentation - is that I come here from the National Women's Council which, as 160 member organisations, represents thousands of women. In fact, as Senator Bacik stated, others in the room are also part of the women's council as members of the women's groups of political parties, which are members of the National Women's Council. What I started off to say, because it is really important, is that this issue of abortion has been discussed for over 30 years in the National Women's Council and there have been motions that really reflected the different perspectives and the difficult experiences around abortion. Coming here today to talk about this, I feel there is a very strong mandate from women and from women's organisations, and it is backed up by the opinion polls. That is important to say.

The issue of suicide came up. My key response to that - Ms Smyth also said it in reference to Action on X - is to ask in what other area of policy do we decide to ditch Supreme Court rulings because we do not like them. That is what Attorney General *v*. X and others was about. It allowed for suicide, and the committee members, as legislators, have to go forward with that.

Some of the other wider questions also related to suicide. There has been clear testimony from the medical professionals at these hearings, similar to what we have been saying, about why it is important to decriminalise certain types of termination and why it is important to include suicide, and we concur with this.

Ms Ailbhe Smyth: On the question of whether Choice Ireland was happy that Ireland would retain a restrictive abortion regime, it is not, and neither is the National Women's Council, nor Action on X, but neither, perhaps more tellingly, are 82% of those questioned in the recent Red C poll. Some 82% of voters supported a constitutional amendment to extend the right to abortion to all cases where the health of the mother is seriously threatened and also to cases of rape. I will come back to the point made a little while ago by my colleague, Ms Kennedy, which is

that we have never really had an opportunity since 1983 to answer a direct question about having more progressive abortion legislation in this country through a referendum. Increasingly I am of the view that I do not like referendums any more than anybody else here does, but they are very useful in democracies. In fact, they are important in democracies. Furthermore, they help legislatures to know what people are thinking in democracies. I would have thought that, given the amount of conflict, trouble, divisiveness, controversy, bad feeling and all kinds of things that we have had on the issue of abortion over 30 years - I remember extremely well every one of those issues, as do others in the Chamber today - it is about time a sensible practical question was put to the people of this country and that we got a clear answer, at least for the next decade.

On Senator Bacik's question on fatal foetal abnormalities, obviously I am thinking of the case of D *v*. Ireland, which went to the European Court of Human Rights. While that case was deemed to be inadmissible in that court because not all of the remedies had been exhausted in the courts in Ireland, at the same time it was apparently agreed that the Government had an argument in its defence that it would have been possible to interpret Article 40.3.3° as permitting terminations in cases of fatal foetal abnormality, and the ECHR agreed with that point. Therefore, there is something there which is very important to the lives of perhaps not very many women, but it is absolutely crucial to those lives, and it does require exploring. Perhaps that might be one of the points raised by the committee in its report to the Legislature.

Chairman: There are a number of speakers and I will take them all together. I ask the members to be brief because I am extending this time to the non-members.

Deputy Terence Flanagan: As a State-funded organisation that seeks to represent the views of all Irish women, does the National Women's Council feel any obligation to represent the views of many Irish women who are opposed to abortion? Does the council believe that the unborn has any rights? Its representative approvingly quoted the United Nations special rapporteur as saying that restrictions are an impermissible barrier to the realisation of women's right to health, which must be eliminated. Does this mean that the council is opposed to all restrictions on abortion?

Choice Ireland's founding documents state that it campaigned for free and legal advice on demand. Does that include partial-birth abortion?

Action on X stated that it is public knowledge that some of the Irish women who have abortions in Britain do so because the pregnancies would damage their physical or mental health, or possibly endanger or shorten their lives. I wonder on what basis does it makes those comments?

Also, if a woman does decide to abort a baby, are there any situations in which Action on X believes that the father has any right to oppose this? In the same situation, do grandparents have any right to oppose the abortion of their grandchild?

Chairman: I thank Deputy Terence Flanagan.

Deputy Terence Flanagan: In conclusion, my question to all of the groups is whether they would support the choice of a woman who wishes to abort her baby because the baby's gender poses a mental health threat to the mother, and whether they would support the choice of a woman who wishes to abort because the foetus has been diagnosed with a cleft palate, where this poses a mental health threat to the mother?

Deputy Marcella Corcoran Kennedy: I thank the groups for their presentations. I have

only two questions. First, we learned over the past couple of days that it has been estimated that 14 women a day are going to England for abortions. Do they have any research or information on these women, not specifically on who they are but on the reasons they are going, what age they are, the demographics, etc.? It is important that we get some explanation for that. Reference has been made to safe legal abortion in Ireland. At what point might it be permitted to abort a foetus for whatever reason? It is important for us to know that in the context of the X case because if somebody is suicidal at a particular point, such as the second trimester, would the witnesses agree with abortion or delivery?

Deputy Aodhán Ó Ríordáin: I welcome the witnesses. Yesterday Dr. Simon Mills presented a draft Bill which he felt we could work from in legislating for the X case. His Bill included a section on fatal foetal abnormality and he suggested that it would be constitutional to make such a provision. He also included a section on conscientious objection, which was part of the original British abortion law in the 1960s. I ask the witnesses their views on that.

As I asked the anti-abortion groups about lobbying in the interest of balance, it is only fair that I ask the witnesses currently before us what they consider to be appropriate lobbying of Deputies and Senators on this issue.

Senator Jim Walsh: Given that the medics stated there was no problem in dealing with patients and no record of inhibitions on the part of medical professionals because of current legislation, do the witnesses accept that opinion? Correct me if I am wrong but they seem to suggest that abortion is a solution to all problems in crisis pregnancies. Do they think it beyond the capacity of this society to deal with crises other than where a real and substantial risk arises to the life of the mother from a physical medical condition in a way that offers support and medical counselling to save the life of the mother and her baby so that they can enjoy each other in future years?

I refer the ladies involved in Action on X -----

Chairman: Ms Smyth and Ms Kennedy.

Senator Jim Walsh: ----- to Dr. Bernard Nathanson's book. Dr. Nathanson was one of the great campaigners for abortion in the US. In 1979 he wrote a book from which I will quote a couple of passages.

Chairman: We do not have time.

Senator Jim Walsh: He wrote:

> The supposed threat of suicide was the logical battering ram. It was just a question of finding a squad of complacent psychiatrists...Out would come the little notebook from my back pocket for a quick consultation to see which two I had sent the last woman to...One particular psychiatrist was reputed to conduct his interview in five minutes and to charge $100 a letter. To be fair, not all members of the psychiatric staffs cooperated.

Chairman: Senator Walsh has spoken for longer than anyone else in this session.

Senator Jim Walsh: I have been told that I supplied incorrect information this morning. In case I mistakenly stated that four out of five pregnancies in Britain end in abortion, the correct figure is one out of every four or five, or approximately 25% of pregnancies. Do the witnesses believe that is a good scenario for society?

Senator Rónán Mullen: I thank the witnesses, with whom I disagree on many issues, for at least using the phrase "fatal foetal abnormality" rather than the terrible phrase "incompatible with life" which was being bandied about several months ago.

Chairman: Can we stick to the topic?

Senator Rónán Mullen: I just wanted to make that prefatory comment. Other speakers have acted likewise.

Chairman: That has not been done in this committee.

Senator Rónán Mullen: I have heard a number of comments. What has not been done?

Chairman: Carry on.

Senator Rónán Mullen: The issue of foetal abnormality has been raised on numerous occasions and I have had considerable contact with families who are terrified at the prospect that children who were previously loved until their natural end would henceforth be in a society which would not regard them as deserving protection. A sensitive debate is required which respects life. Many of these families see this issue as part of a euthanasia debate for terminally ill, pre-born children.

Chairman: I ask the Senator to conclude. Time is moving on.

Senator Rónán Mullen: May I ask the question?

Chairman: Please do.

Senator Rónán Mullen: Suicide has been central to the debate. On one hand we have heard from eminent perinatal and other psychiatrists who have not come across a case in which abortion was indicated. It does not appear to be a medically indicating phenomenon. On the other hand, we have heard about the pressure on psychiatry. In the past we heard from people like Ann Furedi, from a British abortion provider, about the way in which mental health became the grounds for people without mental health challenges to obtain abortions in Britain. What is the witnesses' honest opinion on legislating for abortion on grounds of X, which many of us fear will open the gates or else is simply unjust in principle because it is not a medical response? What do they think it will lead to in terms of the numbers of abortions taking place on those grounds, to their best estimate?

Senator Martin Conway: In this morning's session I was very critical of one of the groups because of its past behaviour. In the interest of balance and because language is important, I note that the language used on the websites of some of the groups before us is inappropriate and unfair. We need a mature discussion of this issue because the vast majority of the people who look to us as parliamentarians for a solution want common sense.

Chairman: Has the Senator a question?

Senator Martin Conway: I am coming to it. I have not spoken much in the past three days.

Chairman: I appreciate that.

Senator Martin Conway: If the principles of X were to be followed through in legislation, what protection will be offered to a child who is discovered to have a serious disability so that an abortion does not take place?

Deputy Bernard J. Durkan: I ask a similar question to those I asked previously. In view of the emotive nature of this subject and the sincerely held views on both sides of the debate, is it accepted that the most appropriate way of addressing the issues arising is by way of legislation and regulation, with a view to ensuring that in all circumstances where pregnant women have to be treated, they can be confident of proper medical care, regardless of the views of the professionals to whom they are referred?

Chairman: For the sake of balance, I repeat the comment I made this morning that all groups need to review and moderate the campaigning behaviour in which they engage. This is my personal view.

Ms Jacinta Fay: Choice Ireland campaigns for free access to accurate information on crisis pregnancy, comprehensive sex education, free access to contraception and free, safe and legal abortion. The issue of abortion based on sex or gender selection was raised. We argue that such practices are due to patriarchal structures and that male preference is a result of gender norms which value males over females. Any ban on abortion for the purpose of sex selection would not counteract the entrenched gender bias that underlines this practice. It has been the experience of other cultures that such bans have been ineffective and have further exacerbated gender discrimination by undermining women's autonomy and creating additional obstacles to women's health care.

In regard to the demographics of the women who are travelling to England for abortions, I do not have statistics but we know that a broad spectrum of women is involved. It includes young and older women as well as those who are already married with children and do not have sufficient funds to support another one. There are a variety of reasons why women will travel to access an abortion and all of them are valid.

In respect of late-term abortions, the master of the National Maternity Hospital answered that question in previous hearings. The principle accepted by the Supreme Court is that while the mother and foetus have equal rights, if those rights are in conflict then the rights of the mother prevail. In theory, that situation can arise at any stage of the pregnancy but we are talking about very extreme circumstances. The longer a pregnancy goes on, the less likely it is that this circumstance will arise given that in the UK, 87% of abortions occur in the first trimester.

Someone alluded to doctors saying that there were no limits on intervention. The masters of the Rotunda Hospital and the National Maternity Hospital would refute that in respect of what they said during the hearings. All of us here stated in our submission that there was a significant chill factor because under the 1861 Act, abortion is criminalised and a doctor acting in good faith and the woman can be criminalised.

Someone discussed fatal foetal abnormalities. We advocate that if a woman carrying a foetus with a fatal abnormality wishes to access an abortion, that is her choice. Obviously, she should not be forced to do so as it is up to her. We discussed at length the argument that implementing the X case would open the floodgates. It is very clear within our Constitution that the mother and foetus have equal rights so if we wanted to have less restrictive access to abortion, we would need to have another referendum.

Ms Orla O'Connor: I will address the questions I did not answer earlier. Again, our organisation comes to this issue representing very clearly the views of our members which have been put forward through various motions at AGMs so we have a very clear and strong mandate.

A second issue raised concerns the question of where the rights of the unborn fit in terms of this. What we are talking about in terms of the X case is where a woman's life is at risk. We are saying that this has to take precedence.

We saw that if one was legislating for the X case, it would be quite difficult to incorporate fatal foetal abnormalities. We think it is critical for it to be incorporated but we did not see how it could. Some of the legal opinions given here yesterday were interesting because it is a critical issue for our members and the women who have been through that experience.

In respect of appropriate and inappropriate lobbying, the National Women's Council of Ireland has been engaged in lobbying since our inception on a range of different women's rights issues and has always engaged in appropriate lobbying. In respect of whether we can deal with this in any other way, from the National Women's Council's perspective, that is why we came to this hearing saying that we welcomed the decision by the Government to introduce legislation and regulation because we believe that was required under the X case and the European Court of Human Rights so the answer is "No".

In respect of Senator Mullen's question regarding suicide, I have not come here as a medical expert but the Senator asked what my opinion is. From our point of view, the numbers will probably be very small but, as was clearly said by Deputy Conway on the first day of these hearings, one life is too many. Again, I would say that suicide is a requirement under the X case. There is also the wider issue of the message it sends to women with mental health problems who face crisis pregnancies and about being able to come forward and seek counselling and support services.

Chairman: Could Ms O'Connor address Senator Healy Eames's question?

Ms Orla O'Connor: Did I not address it?

Senator Fidelma Healy Eames: It was the question with regard to the claim on the National Women's Council website that the high-profile case in Galway was proof of an urgent need to-----

Chairman: We are not mentioning the case in Galway.

(Interruptions).

Chairman: We are not mentioning any investigation. It is an investigation into a particular issue.

Senator Fidelma Healy Eames: It is the claim of it being proof of an urgent need for legislation for the X case. Why has the council put that in when there is no evidence of that?

Chairman: That was addressed.

Ms Orla O'Connor: I want to be careful about what I say. Following what happened, the significant swell of contacts to the National Women's Council from women who were so concerned was a significant issue. The lack of clarity within the medical profession was also reported extensively within the media. That was clearly put out there in response to that, which is part of the reason we would say that.

Deputy Terence Flanagan: I have a question.

Chairman: I ask Deputy Flanagan to resume his seat.

Deputy Terence Flanagan: My question was not answered.

Chairman: Deputy Flanagan has had plenty of opportunities to come in.

Ms Ailbhe Smyth: As a woman with a very long association with the National Women's Council of Ireland going back long before Ms O'Connor's time and probably since the foundation of the council, I want to speak out very strongly in favour of its probity, integrity and independence over many years. It has done and continues to do an excellent job of giving women in this country a platform and space where our views can be expressed. It is not the case that we always have the same point of view but the National Women's Council has always worked extremely hard to make sense of the views expressed by the many women in Ireland who see the council as their representative organ in the State. That is particularly important for us given that our representation in this Chamber and particularly in the Dáil is so lamentably low. I offer my thanks to the National Women's Council for the work that is done.

In respect of what I mean by safe and legal abortion, by safe, I mean abortion carried out under medically appropriate circumstances and by legal, I mean quite simply abortion which is permissible by law. I mean nothing more than that.

In respect of fatal foetal abnormalities and the question raised about Dr. Simon Mills's Bill, I am not and do not set out to be a legal expert but based on the arguments in the D case heard by the European Court of Human Rights, there would appear to be a basis in Article 40.3.3° for permitting abortion in those cases. I believe, along with my colleagues in Choice Ireland, that this is a decision which would always be made by the woman in conjunction with her medical advisers.

In respect of the open the gates phrase which came up yet again in Senator Mullen's question, he may not and indeed cannot be aware because he was not here that I addressed that issue at some length in my presentation today.

Senator Rónán Mullen: I was paying attention to the monitor.

Chairman: We will not have any criss-crossing on this issue.

Senator Rónán Mullen: It was not a gimlet eye but an eye nonetheless.

Ms Ailbhe Smyth: We have abortion in this country. It is just happens elsewhere, as countless other contributors have pointed out. It happens off-site where we cannot see it and do not have to deal with it but we do have an abortion rate in this country. I see no reason to think that this would rise, if at all, with the introduction of appropriate, comprehensive legislation on abortion in this country. Do we have statistics? We have very few. We have some witness accounts but we do not have the statistics precisely because this data is not collected in this country as technically these abortions do not happen in this country even though they are abortions performed on and requested by women from this country.

Chairman: Deputy Flanagan indicated that he would like to speak.

Deputy Terence Flanagan: My question related to the duty of care towards the unborn. Do Ms O'Connor and the National Women's Council believe that the unborn has rights and that there is a duty of care towards the unborn?

Ms Orla O'Connor: I did answer the question. What I said was that when we talk about the X case, we are talking about where there is a risk to the life of the mother and we are saying that this must take precedence. This is about her life.

Chairman: I thank Ms Jacinta Fay and Abigail Rooney from Choice Ireland, Ms Orla O'Connor and Ms Jacqueline Healy from the National Women's Council of Ireland and Ms Ailbhe Smyth and Ms Sinéad Kennedy from Action on X for attending here this afternoon. I thank the witnesses for their presentations, time, patience and insights. I welcome the Minister for Health, Deputy Reilly, to the committee. Before we conclude, there will be closing statements from the Minister and party spokespersons.

Minister for Health (Deputy James Reilly): I wish the committee and its guests a good evening. I am very pleased to be here to bring the public hearings on the implementation of the judgment of the European Court of Human Rights in A, B and C *v.* Ireland to a close. I commend the Oireachtas Members and invited guests for the balanced and dignified approach we have witnessed over the last three days. In particular, I thank the Chairman, the clerk of the committee, Paul Kelly, and the committee staff, Mary Lindsay and Colm Duffy, for organising and facilitating these public hearings. We have followed the hearings closely and have found the presentations and insights very useful and thought-provoking. I am confident the submissions and the report of the committee on foot of them will greatly assist me and my officials in examining the issues involved in the implementation of the judgment and in formulating a legislative response which will bear public and parliamentary scrutiny.

Last December, the Government approved the implementation of the judgment of the European Court of Human Rights in A, B and C *v.* Ireland by way of legislation and regulation within the parameters of Article 40.3.3° of the Constitution as interpreted by the Supreme Court in the X case. It agreed also to make appropriate amendments to the criminal law. The aim of the legislation will be to regulate access to lawful terminations in accordance with the Supreme Court judgment in the X case and to provide for the drafting of regulations to deal with relevant operational and procedural matters. The advantage of this regime is that the key principles in the primary legislation will be open to the democratic scrutiny of the Houses of the Oireachtas while the regulations will be open to amendment where necessary to address, for example, changes in clinical practice and scientific advances. Now that we have heard the views of medical and legal expert as well as those with a keen interest in the issue, I will, pending receipt of the committee's report, instruct my officials to start developing policy proposals for the legislation.

Much work remains to be done to examine and evaluate possible avenues for the assessment of an entitlement to lawful termination of pregnancy in Ireland and for the delivery of medical treatment. As the exert group indicated, various options exist on the number, roles and qualifications of the doctors who will be involved in decisions as well as on the locations where terminations would take place. The issue of providing for conscientious objection must also be carefully considered. In addition, proposals will require to be formulated on the establishment of a formal framework to review an initial clinical decision. This is one of the main requirements emanating from the A, B and C *v*. Ireland judgment. I reiterate to the committee that the only purpose of the legislation will be to clarify what is lawfully available by way of treatment in cases where there is a real and substantial threat to the life of a pregnant woman and to set out clearly defined, specific circumstances in which this treatment can lawfully be provided. It is clear that much work remains to be done by the Department of Health to give effect to the policy requirements to implement the ECHR judgment through a new legislative

framework. The procedural options are complex given the technical medical, legal, ethical and health-service organisational implications.

I look forward to receiving the report of the committee. Once my officials have completed their preparatory work and the heads of Bill have been developed, the Department will engage further with the committee. I thank the Chairman and all who have participated in these public hearings for their invaluable contribution and assistance to me and my officials in the complex work that lies ahead of us.

Deputy Billy Kelleher: I record my party's appreciation of the Chairman's efforts in chairing the committee over the last three days. The hearings have been informative and have been carried out in a respectful way. That there are divergent, strongly held, passionate views on the matter is evident from the testimony of witnesses and comments of Members of the Oireachtas. While we box people into pro-life and pro-choice positions, there is a substantial middle ground which is sometimes voiceless in debates. We should be very conscious of the many people who are not affiliated with any political party or organisation and who want clarity on the complex points at issue in respect of the strictly confined interpretation of Article 40.3.3° set out in the X case judgment. Clearly, a great deal of work remains to be done before we see the legislation, its content and the regulations which result. The heads of the Bill will be brought before the committee and broader discussions will later take place on the legislation itself.

We speak about language, which is of critical importance in this debate. It is important primarily because up to 130,000 Irish women have gone abroad for a termination of pregnancy. Whatever side of the argument one is on, one should be mindful that strong language can be very offensive. They are our mothers, sisters and neighbours and we should be conscious of that. Equally, we should be entitled to put forward forcefully our point of view without fear or favour, while being respectful. I compliment the Chairman, clerk and support staff of the committee and thank the Seanad for offering its fine room to us for the hearing. We move on conscious of our obligations as parliamentarians and of the people outside who are watching us. They want us to deal in a calm, respectful way with the outstanding issues but only in the context of what is before the committee in respect of A, B and C *v.* Ireland.

Deputy Caoimhghín Ó Caoláin: I thank the groups present and those who gave their testimony earlier and throughout the three days. All contributions, irrespective of the position or outlook from which they came, were significantly informative and helpful. Some contributions were exceptional. I hope the information gathered over the three days of hearings will inform Government in the preparation of the legislation it is intended to present in the early part of this year. I record my appreciation of the Chairman of the committee and its members. Over a period of weeks, we discussed how these hearings would take place. We agreed we would endeavour to set the tone for the continued discussion on these very important and, for many, emotive issues. I congratulate members from across the range of political opinion they represent for adhering to that approach. I hope it will not be lost on the public and will assist in some way to temper the engagements which will undoubtedly take place in the coming period. I do not know that there is more I can add. I thank the media for the interest it has shown and its reporting of the various contributions. Without that attention to the three days of hearings here much critical information would be lost to the public. I thank those who took the time to attend in the Visitors Gallery, some of whom are former Members of these Houses and all of whom were interested citizens as is each and every one of us. I hope the work that lies ahead of us will lead to a just situation that will apply in the interests of the women and children of the future and that we will look back on this work with some pride.

Deputy Seamus Healy: I thank the Chairman for the manner in which he has chaired these proceedings, and the clerk and his staff for the support they gave the committee over these three days and over the Christmas and new year period as well. I thank all the witnesses who have come before the committee for their presentations and submissions. The interaction and exchange with the witnesses has been informative, and will help the committee and the Government in drafting legislation in the weeks and months ahead.

This is an emotive subject and a difficult and sensitive area, and must be dealt with sensitively and compassionately. I believe that there is an imperative on the Oireachtas to deal urgently with this issue. It is not an option to continue as heretofore.

As the Minister said, the proposed legislation will be based on the probability of a real and substantial risk to the life of the mother. We are talking about limited, narrow and rare occurrences, identified as such by the medical witnesses who came before us. I believe that the area of fatal foetal abnormality could and should be dealt with in the legislation. Dr. Simon Mills identified what he described as middle ground and put forward a sample Bill which may be a good template for the future legislation. The Minister and his Department should consider it very closely in framing this legislation.

Deputy Ciara Conway: I thank the Chairman, the clerk, and all the staff for the exemplary way in which these meetings have been conducted. We are often criticised but we have shown over the past three days that sometimes politics does work and sometimes what we are elected to do can happen.

I have spoken about the sense of failure and shame that I have felt as a legislator for not doing my job on this issue. For the first time I am sure that we will be able to legislate and to right the wrong that has existed and the inequality of women in this country over the past 20 years.

This has been a very informative, calm and insightful debate. We now need timelines setting out how to proceed and implement our decision. As we approach March and the 21st anniversary of the X case decision, I, like many others in this room, do not want to have to revisit this at a future date. We owe that to the women and children of Ireland.

Chairman: I call Deputy Catherine Byrne on behalf of Fine Gael.

Deputy Catherine Byrne: I did not think I was going to be asked to speak.

Chairman: I thought the Deputy had read the note.

Deputy Catherine Byrne: I did not. I thought it was a secret note and that I was in school again.

First, I thank the Minister for being here and I thank the Chairman. The past three days have been a learning curve for me, as someone who has not been long in politics. They have made very clear what can be done when people work together, especially on a committee. This was an example of how committees should be run within the confines of this building and I put that down to the good chairmanship of Deputy Buttimer and to the participation of all the committee members. Sometimes we do not have the opportunity to thank the staff and this is an occasion on which we should thank them for their prompt responses to anything that came in to be read and especially for making sure that we were all on time because we are not always on time.

People have been watching the meetings on television, including members of my family

who say I should get my hair dyed. Mrs. Justice McGuinness said there are people who are for and against this legislation and there are the people in the middle, and they are the ones who have been watching us. Young women and mothers have watched this debate because this is a very important issue for all mothers and for all young women. It is a sad reflection on society that it has taken us so long to get to where we are today. Most of all this is an opportunity to build a better society for everybody. I see the past couple of days as the first steps. We are beginning to change many things in politics and legislation. The decision the committee makes over the coming weeks will be an honest and true representation of what we have heard here and how we felt about it. I thank the Chairman for throwing me in at the deep end.

Chairman: On behalf of those who are not members of the committee, Senator Jim Walsh has indicated that he will speak.

Senator Jim Walsh: I concur with the previous comments. The feedback from outside the House has been that these meetings have been conducted very well and professionally. As the Chairman knows, that is only symptomatic of the quality of the debate that goes on in this House every sitting day, even since he left. He and I had a conversation prior to this and I thank him and the members of the committee for the opportunity given to those of us on both sides of the divide, who have deeply held genuine convictions on this fundamental question of life, to participate in the hearings. I thank the Chairman and committee members personally too. I pay tribute to and thank the witness groups who came in over the past three days. It was obvious that they put considerable work into preparing and presenting their submissions to us. It was obvious too that the Members had done considerable homework which stood out in the quality of the questions.

Despite the process having been rushed, which was not the Chairman's fault or that of the committee but was imposed on them, we have garnered much useful and good information from the witnesses. I was reassured about the quality of maternal health in Ireland. Everyone who came from the medical profession said that the current legal position does not in any way undermine their ability to provide good quality service. The psychiatrists were unanimous, including those who are pro-choice, that abortion is never a treatment for suicidal ideation.

Obstetricians are looking for legal protection because they feel exposed. One said they could be jailed which is probably unlikely but they are entitled to say that. Some are concerned that legislation could in some way impact negatively on their ability to provide an effective service to mothers. I appeal to the Chairman, and he said this morning that the committee will consider this, to give these people the opportunity to be heard. Without our views being presented there is no way that the hearings can be described as fair and balanced. I urge the Minister to listen carefully and to reflect on what was said here and not rely on any preconceived notions about which way the Government wants to go. If he does that nobody will have difficulty.

Chairman: I would be remiss in not asking the Deputy Leader of the Seanad, Senator Bacik, to say a few words.

Senator Ivana Bacik: As a non-member of the committee who has played an active role in the proceedings over the past three days I thank the Chairman for his impeccable chairmanship of the meetings. I also thank the staff of the joint committee, as well as the members, for allowing us non-members also to have input. In addition, I of course thank the witnesses who have given us such insight over the three days.

I greatly welcome the Government's decision to legislate, along with regulations. I also

greatly welcome the Minister's commitment given again this afternoon to provide such legislation and hopefully Members will see it within a short timeframe. As others have noted, we have waited 21 years since the X case and 30 years since the 1983 constitutional amendment for legal clarity in this regard. Consequently, it is important to move to legislate swiftly but with due consideration for all the issues that have been raised over the past three days.

Finally, as Deputy Leader of Seanad Éireann, I welcome all those present who do not pay regular visits to this House and note they are all very welcome in this Chamber at any time they choose.

Chairman: Mar fhocal scor, as Chairman of the joint committee I thank everyone for their participation and forbearance this evening. Over the past three days we have discussed the issues which require consideration in the drafting of the heads of a Bill following the decision of the Government to accept the expert group's suggestion that the judgment of the European Court of Human Rights in respect of A, B and C *v.* Ireland be addressed by putting in place legislation with regulation within the framework of Ireland's current constitutional position, as stated in Article 40.3.3° of the Constitution as interpreted by the Supreme Court. Over the course of our hearings, we have heard from medical and legal experts who have outlined a range of issues for further consideration. Today, we heard from representatives of religious groups and an atheist group, as well as from a range of advocacy groups, which have outlined their positions. Our meetings have enabled us to elicit much information on current medical practice, thereby allowing us all to become fully informed and aware of how current medical guidelines and practices are implemented.

As has been stated, this issue has been a very vexed question in Irish society for more than 30 years. Throughout our communities, there are sincerely-held views across a wide range of opinions and at times during previous discourse and debates, they have become very heated. However, over the past three days, these joint committee hearings in this Chamber have been conducted in a calm, tolerant and respectful way. This shows that even on this deeply sensitive issue, it is possible to engage in a manner that is measured and which facilitates a nuanced discussion. Our constructive and positive engagement has only been possible because of the approach taken by the witnesses and Members of Oireachtas Éireann, who have contributed significantly to our hearings. I thank you all for attending the joint committee and for your time, helpful contributions and thorough preparations. To my Oireachtas colleagues, both members and non-members of this joint committee, I very much appreciate the way in which you all have discussed the issue and raised your own concerns. This has contributed to demonstrating that the political system can engage in a mature way on the most difficult of issues. I wish to put on record my appreciation of the Cathaoirleach of the Seanad, the Seanad Committee on Procedure and Privileges and the Clerk of the Seanad for allowing us to hold our hearings in the very fitting Chamber of Seanad Éireann.

I am very conscious that over a three-day period, it was not possible to invite each of the many groups and individuals who would have wished to have made an oral presentation and submission to the joint committee. Members of the joint committee, as well as other Members of the Oireachtas, made suggestions as to who should be invited to our hearings and all suggestions were considered by the joint committee before members agreed on who to invite. In deciding on who to invite, the joint committee attempted to ensure there was a fair and balanced expression of views, as well as guaranteeing it heard from experts, both academic and practising, from the legal and medical fields and from religious and advocacy groups. In particular, I thank the members of the Joint Committee on Health and Children for their help and assistance

in the running of these hearings. As a committee, we have worked well together, putting aside partisan politics, as well as parking our differences of opinion on this issue. I pay tribute in particular to Deputies Kelleher and Ó Caoláin, as the representatives of Fianna Fáil and Sinn Féin, and to Deputy Healy and Senator van Turnhout on behalf of the Independent Members, for their tremendous co-operation, assistance and work in the joint committee. I also pay tribute to members of the Fine Gael and Labour parties. I greatly appreciate their contributions and in acknowledging the decision of the Government, their assistance in the organisation of our hearings and the way in which they have engaged have greatly assisted our efforts. I hope your respective parties will be very proud of your contribution over the past three days, as well as over the past month in organising these hearings.

The organisation of these hearings has only been possible because of the immense effort of the committee secretariat. I thank the clerk to the committee, as well as Mary Lindsay and Colin Duffy, for their enormous contribution of work. They have undertaken this work during the Christmas holidays and have been at work on it both at midnight and at 6.30 a.m. They have answered promptly, courteously and efficiently, are dedicated and are an example of how public service works in this country. Now that our hearings are completed, I also wish to pay tribute to the staff from the wider committee secretariat who have supported our clerk, Colm and Mary for the duration of our hearings. I wish to put on record my appreciation of the efforts of the Superintendent of the House, the Captain of the Guard and a very co-operative team of ushers, who have made the transition to this Chamber very easy and who have been very helpful to members throughout. I also thank the staff of the Debates Office and the broadcasting and communications units, as well as our sound engineers, Ken Lane, Jordan Breslin and all the others. In addition, I thank the staff of the Library and Research Service and the office of the parliamentary legal adviser, who will continue to be of assistance to the joint committee as it prepares its report. Finally, I thank all the witnesses who have attended over the past three days and who have made the decision to hold these hearings very worthwhile.

Now that members have concluded their hearings, the joint committee will reconvene next week. At that meeting, members will commence the process of preparing a report for the Government. Its report will be a summation of the information members have gathered from all the witnesses who have given evidence and will include written submissions the joint committee has received. On its completion, the joint committee will submit the report to the Government for its information and use when drafting the head of the Bill. I thank the Minister for Health, Deputy Reilly, for appearing before the joint committee this afternoon and for his restatement of the important role of these hearings in the legislative process. As a committee, members welcome his confirmation that the joint committee will be used again as a source of information when drafting the head of the Bill and hopefully as part of the debate on Committee Stage. I again thank everyone sincerely for their participation in our series of constructive hearings over the past three days.

The joint committee adjourned at 5.05 p.m. until 9.30 a.m. on Thursday, 17 January 2013.