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# **SUBMISSION ON THE CEDAW**

(COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN)

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**RESPONSE TO THE LIST OF ISSUES DOCUMENT**

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campaign

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## INTRODUCTION

This submission is made on behalf of the Pro Life Campaign (PLC). The Pro-Life Campaign is a non-denominational human rights organisation, drawing its support from a cross-section of Irish society. The Campaign promotes pro-life education and defends human life at all stages, from conception to natural death. It also campaigns for resources to support and assist pregnant women and those in need of healing after abortion.

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The PLC notes that Article 40.3.3 of the Irish Constitution as ratified by the people of Ireland contains important legal protections for unborn human beings and to that end, it is hoped that this session of the CEDAW Committee will present an opportunity to reaffirm these protections which are afforded to the most vulnerable members of Irish society.

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The PLC notes that the Convention on the Elimination of Discrimination Against Women is part of the overall system of UN human rights treaties. All treaties and Conventions in the UN treaty system are to be read in harmony with each other pursuant to the provisions of the Vienna Convention on the Law of Treaties and the “ordinary meaning rule” in Article 31 of the Vienna Convention. In that respect the attention of the CEDAW Committee is drawn to Article 6 of International Covenant on Civil and Political Rights.

## INTERNATIONAL HUMAN RIGHTS LAW AND THE CONVENTION ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW)

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Article 6(1) and Article 6(5) of the International Convention on Civil and Political Rights state as follows;

Article 6(1) Every Human Being has the inherent right to life.

Article 6(5) Sentence of Death shall not be imposed for crimes committed by persons below eighteen years of age and **shall not be carried out on Pregnant Women.**

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The CEDAW Committee has directed the Irish Government at paragraph 21 of the List of Issues document to address certain matters related to abortion under the heading of “Health”. In particular, paragraph 21 calls on the Government to:

*Please provide information on legislative measures envisaged to revise the law in order to provide for abortion on other grounds including threat to the health of the pregnant woman, rape, incest and severe foetal impairment, and to remove punitive measures for women who undergo abortion.*

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The provisions of the CEDAW Convention relating to Health are contained in Article 12 which states:

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation

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It should be noted that nowhere in the CEDAW Convention is there any mention of so-called “Abortion rights”, nor is any definition given of what constitutes a “severe foetal impairment”. In light of the fact that the CEDAW Convention makes no reference to a “right to abortion” as a general proposition or in the circumstances mentioned in paragraph 21 of the issues document, it is unclear from where the CEDAW Committee derives the legal basis to insist that the Government “revise the law” in Ireland.

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Considering that the text of the International Covenant on Civil and Political Right (ICCPR) recognizes that the death penalty should not be imposed on a pregnant woman, it is clear that the ICCPR’s Prohibition of the Death Penalty for Pregnant Women Implicitly Recognises the Right to Life of the Unborn. The travaux préparatoires of the ICCPR explicitly state,

*“The principal reason for providing in paragraph 4 [now Article 6(5)] of the original text that the death sentence should not be carried out on pregnant women was to save the life of an innocent unborn child.”*  
*Similarly, the Secretary-General report of 1955 notes that the intention of the paragraph “was inspired by humanitarian considerations and by consideration for the interests of the unborn child...”*

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The Convention on the Elimination of Discrimination Against Women and the ICCPR are to be read harmoniously; thus one document cannot protect the unborn child while the other permits the removal of its life. When one examines the Convention of the Elimination of Discrimination Against Women it is apparent that there is no provision removing the rights of the unborn child.

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Thus, the matter raised at paragraph 21 of the List of Issues document as set out above, lacks any basis in the Convention or in any UN treaty. The observations in paragraph 21 of the List of Issues document were arrived at without any apparent supporting references to the explicit protections afforded to human life in the text of the ICCPR and also lack any basis in the CEDAW Convention. This is to be regretted, in particular, as the observations of the CEDAW Committee and its demand for State Party compliance in this regard, lack a legal basis in the provisions of the CEDAW Convention, and should therefore be ignored.

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It is further submitted that the reference to “abortion aftercare” in paragraph 22 should also include reference to the care that is due to all women for “abortion regret” and “abortion trauma” as the Pro Life Campaign notes that despite the ongoing debate in Ireland surrounding abortion, there is a distinct lack of discussion or understanding of this condition which falls on the trauma spectrum and remains a high risk for all women who submit themselves to the abortion procedure.

## CONCLUSION

The unborn child is a living human being from the moment of conception, and is entitled to all of the same rights as other members of the human family. The consistent pressure to expand abortion in Ireland lacks a basis in International Law and is discriminatory to those unborn children that would be affected, as it disregards the legitimate rights recognised in the Irish Constitution. Furthermore, it is inconsistent with the text of the ICCPR cited above for the CEDAW Committee to advocate for the removal of fundamental rights for an entire class of vulnerable persons, with the result that their right to life would be violated, and the rights and guarantees afforded to them in the Irish domestic legal order would be meaningless.

Pro Life Campaign - 30.01.17

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