

Abortion law in need of reform – the negative impact on women

Briefing on the Abortion Bill

"I'm in a controlling relationship, he watches my every move, I'm so scared he will find out [that I'm pregnant], I believe he's trying to trap me and will hurt me. I can't breathe. If he finds out, he wouldn't let me go ahead [with the abortion], then I will be trapped forever. I cannot live my life like this."¹

On 23rd October 2018, Members of Parliament will have the opportunity to vote on a Ten-Minute Rule Bill to take abortion out of the criminal law in England, Wales, and Northern Ireland. This is a key measure for protecting the right to access abortion services, particularly for women in abusive or controlling relationships.

The End Violence Against Women Coalition, the Fawcett Society, Women's Aid Federation of England, Imkaan, Rape Crisis England & Wales, and Southall Black Sisters support this bill and ask MPs to vote in favour.

Current abortion law

Across the UK today, women who end their own pregnancies are risking life imprisonment under a law that was put in place before women even had the vote. The Offences Against the Person Act 1861 makes abortion a crime, and it is still in place in England, Wales, and Northern Ireland.

The Abortion Act 1967 did not decriminalise abortion – it just made it legal in certain circumstances and as long as it is signed off by two doctors and performed in a clinic specifically licensed for terminations by the Department of Health. These conditions make accessing abortions especially hard for women in abusive or controlling relationships and can force them to consider ending their own pregnancies with pills bought online, in breach of the law. These women are risking life in prison.

In Northern Ireland, the Abortion Act has never applied and women there are unable to access abortion services in almost all instances. The legal test for legality of an abortion in Northern Ireland comes from a 1938 court case R v Bourne which found that an abortion would be legal only if 'the probable consequence of the continuance of the pregnancy will be to make the woman a physical or mental wreck'. There is no exception for pregnancies as a result of rape or incest.

Difficulties accessing care

The framing of the current law restricts the ways in which abortion services can be provided, and thus restricts access for women who have work or caring responsibilities, who have health issues, those with insecure immigration status, that can make travelling difficult or impossible, or who are in controlling or abusive relationships. Some of these issues can include:

- **Distance to a clinic.** Requiring clinics to be licensed by the Department of Health means that abortion services are not provided through health infrastructure like GP surgeries. This often requires women to travel further for care, with additional time and costs.

¹ Barriers to accessing abortion services and perspectives on using mifepristone and misoprostol at home in Great Britain, Aiken, Abigail R.A. et al. Contraception, Volume 97, Issue 2, 177 - 183

- **Multiple appointments.** Interpretation of the Abortion Act continues to require women to take all parts of Early Medical Abortion pills in the clinic. This can require women to return for up to three appointments – with the additional time and costs that are entailed.
- **Caring responsibilities.** If women are forced to travel further or attend multiple appointments, they often report issues with accessing childcare or respite care at short notice – particularly if their gestation or location requires an overnight stay. There are a number of examples in BPAS's *Medically Complex Women* report² which resulted in women simply not being able to attend an appointment and being forced to continue with her pregnancy.
- **Work leave.** Women report difficulties in knowing how to ask for time off for abortion treatment – particularly when it involves travelling or where multiple appointments mean that several days' leave are required. A report on *Abortion as a Workplace Issue*³ in Northern Ireland in 2017 found that 23% of women surveyed wanted time off after an abortion but were unable to afford to lose wages, while 28% said that they had needed time off and been forced to use annual leave.

Domestic violence, sexual violence, and so-called 'honour-based' violence

Women who have experienced domestic violence, sexual assault or honour-based violence are more likely to require abortion services than the general population.⁴ Women in controlling or abusive relationships may experience a lack of control of their own fertility and an increased risk of unintended pregnancy and then face additional barriers in trying to access care that can be a long distance away and which they may often wish to keep hidden from their partner. The nature of abortion services as distinct from other healthcare provision make them harder to hide – and thus harder to access for women in these relationships.

Women who have suffered domestic abuse are a particularly vulnerable category and will have additional support needs. Abortion care providers should be trained in screening for all forms of VAWG to ensure that women have an opportunity to safely disclose abuse/coercive behaviour and be referred to appropriate specialist support services.

Pregnancy is a time of significant risk and harm for victims of domestic violence⁵. **The Bill will create a new criminal offence of non-consensual abortion** - caused on purpose or recklessly by violence, or the administration of abortion pills. This is crucial for improving the outdated 'child destruction' legislation⁶, and ensuring that abusive partners or ex-partners who commit shockingly violent attacks on women, or force them, to terminate a wanted pregnancy will be held accountable for these crimes.

- **Accounting for time.** With clinics a greater distance from home and the possibility of multiple appointments, women can find it harder to hide their activity from controlling partners. This can result in women either forgoing abortion care and continuing with their pregnancy, or seeking alternatives outside standard provision.

² <https://nowforni.uk/wp-content/uploads/2018/10/Briefing-Medically-Complex-Women.pdf>

³ https://www.unison-ni.org.uk/sites/default/files/TU%20Abortion%20Report%20Oct9_Final_Final_Edit.pdf

⁴ Mainey L, Taylor A, Baird K, O'Mullan C. Disclosure of domestic violence and sexual assault within the context of abortion: meta-ethnographic synthesis of qualitative studies protocol. *Systematic Reviews*. 2017;6:257. doi:10.1186/s13643-017-0637-x.

⁵ Department of Health, Responding to Domestic Abuse: A Handbook for Professionals, 2017

⁶ Infant Life Preservation Act 1929

- **Inability to travel.** After 20 weeks, if women are having an abortion for 'social' reasons and have complex medical conditions, they are required to travel to London – where the only three hospitals who treat women in these circumstances are based. This can simply be out of reach for women in controlling circumstances. Even earlier in pregnancy, women can struggle to travel to access care.

Northern Ireland

Abortion in Northern Ireland is illegal in all but the most extreme of circumstances. As a result, hundreds of Northern Irish women every year are forced to travel to England, Scotland, and Wales to access abortion care. Until 2017, this treatment was not funded by the NHS and Northern Irish women were forced to pay between £500 and £1500 to access care.

- **Travelling.** Travel is not accessible for every woman – although procedures are now funded and women on very low incomes have their travel and support costs funded, it is not always an option. For instance, additional childcare, the cost of travel and accommodation, poor public transport, controlling or abusive relationships can all make the physical act of leaving the country to access care impossible.
- **Rape and incest are not provided for under the abortion law.** Only 13 abortions took place in Northern Irish hospitals in 2016/17, and the interpretation of 'mental or physical wreck' does not, in guidance, automatically cover all cases of rape or incest. As a result, Northern Ireland has one of the most restrictive and harmful abortion policies in the world.
- **Supreme Court ruling.** Over the summer, the Supreme Court ruled on a case brought by the Northern Irish Human Rights Commission against the Northern Irish government for refusing to reform abortion law in the specific cases of rape, incest, and fatal foetal abnormality. The court ruled that *"the current law is incompatible with the right to respect for private and family life, guaranteed by article 8 of the Convention, insofar as it prohibits abortion in cases of rape, incest and fatal foetal abnormality."*
- **Prosecutions.** In recent years, three women have been prosecuted for buying abortion pills online. One young woman was reported by her flatmates, put on trial, and received a suspended prison sentence. Another woman with a history of anxiety and self-harm accepted a formal caution alongside her partner after the effect of the trial led to her being considered a suicide risk. Another woman obtained pills for her 15-year old daughter who was in an abusive relationship and, two years on, is still fighting the decision to prosecute her on evidence obtained from her daughter's medical records.

Using alternatives to the health service

Under current abortion law, any woman who uses pills bought online to end her own pregnancy faces life in jail. This is true of any gestation and equally true in England, Wales, and Northern Ireland.

- **Medicines and Healthcare Regulatory Agency seizures.** Over the past three years, the MHRA has seized almost 10,000 sets of abortion pills destined for British addresses. These represent many thousands of women who have resorted to buying pills online, and each of those women, if they use them in an attempt to end a pregnancy, are risking life in jail. The seizure of these pills means that women who were so desperate as to feel they had

no choice but to resort to buying pills online were left with no option to end their pregnancy safely.

- **Women on Web** is the largest online abortion pill provider for women who are under 10-weeks pregnant. Their latest figures show that of women seeking pills via the service, 16% cite domestic or so-called "honour-based violence" and 8% intimate partner violence as the reason they were attempting to access abortion outside the legalised system in Great Britain.

Women's stories

One woman in contact with BPAS's Specialist Placement Team presented as *"19 years old with three young children. BMI>40 [requiring treatment in an NHS setting]. Her ex-partner has recently been released from prison following a sentence for domestic violence. Unable to find an appointment (issue was distance to travel) [forced to continue with her pregnancy]"*.⁷

*"I have restrictions that could jeopardise my safety here. The pregnancy is a result of adultery. I do not want to defy certain family members and bring shame on them knowing that I depend on them. That would put my life at risk and mean that I would have to flee with no job and no skills. This [obtaining pills online] is beyond doubt the safest option for me."*⁸

One woman in contact with the BPAS Specialist Placements Team: *"Mid 30s, presented in second trimester, heart condition [requiring treatment in an NHS setting]. Currently attempting to obtain a non-molestation order against ex-partner due to DV. Living with friends. Unable to find an appointment [forced to continue with the pregnancy]."*⁹

*"I live in [a rural area in England] and have no friends and the relatives I have I am not close to. I was hoping to have a termination in the comfort of my own home without judgmental eyes and without worrying about my husband knowing. I fear what would happen if he did. I have 3 children and my 3rd is 11 months old. I considered an abortion when he was conceived and had a terrible pregnancy and still suffering from post-natal depression. I will try to seek help, anonymously if possible. I'm in great need of help."*¹⁰

*"My marriage is breaking down and my husband got me pregnant by removing the condom without telling me. I took the morning after pill straight away but I'm still pregnant. I am not able to get to the closest clinic by myself as I have children and I'm not allowed to go by myself. I will have to go to the clinic at least 3 times to have an ultrasound and then go back for the tablets and the next day which isn't going to happen without me telling someone. I feel so depressed and trapped and this [ordering pills online] is my only answer and I'm really desperate for help."*¹¹

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⁷ <https://nowforni.uk/wp-content/uploads/2018/10/Briefing-Medically-Complex-Women.pdf>

⁸ Barriers to accessing abortion services and perspectives on using mifepristone and misoprostol at home in Great Britain, Aiken, Abigail R.A. et al. Contraception, Volume 97, Issue 2, 177 - 183

⁹ <https://nowforni.uk/wp-content/uploads/2018/10/Briefing-Medically-Complex-Women.pdf>

¹⁰ Ibid.

¹¹ Women on Web submission to the Home Affairs Select Committee Inquiry into Domestic Abuse;