A contentious subject

Abortion is a contentious subject for any nation and this is no less true of Northern Ireland (NI). Despite being part of the United Kingdom, NI has never enacted the Abortion Act 1967 and the reasons given are our historically conservative attitudes and beliefs. In April 2013 the latest in a series of draft guidelines entitled ‘The Limited Circumstances for a Lawful Termination of Pregnancy in Northern Ireland’ was issued by the Department of Health NI (DOHNI) to clarify aspects of earlier versions that were revoked following challenges by pro-life groups on their accuracy and application. That draft guidelines exist at all is down to pressure placed on the DOHNI by the Family Planning Association NI through the NI Courts.

The need for clear legal guidance is somewhat in dispute, with many Members of the Legislative Assembly and other interested parties including the main churches, seeking to retain the current restrictive practice and uncertainty, while recognizing that hundreds of NI women travel to mainland UK for terminations annually. It is nevertheless hard to argue that two outdated statutes 1861 and 1945 and one 1939 decision in an English Court of first instance represents a contemporary legal basis for NI’s health clinicians to practice. So what is the impact of these new draft guidelines on health clinicians and especially those engaged in surgical termination of pregnancy? According to the draft guidelines, the circumstances under which terminations may lawfully be carried out in NI are where continuance of the pregnancy threatens the life of the woman, or would adversely affect her physical or mental health in a manner that is real and serious and permanent or long-term. It also clarifies that foetal abnormality of itself is not a ground to terminate in every case.

The guidance further states that each woman’s case requires careful and sensitive assessment and stresses that it is important that practitioners, including secondary parties [nurses and midwives] involved in terminations are familiar with the guidelines as they are liable to criminal prosecution if they break the law. A second party to a termination is defined as any person who, with intent to procure an abortion, assists another person in carrying out an unlawful termination of pregnancy or indeed who encourages the carrying out of such a procedure.

So why is this draft guidance so concerning to persons engaged in terminations? The first concern must be that the guidance is a draft and provides no certainty. A second concern must relate to the tone of the document as its attempts to induce concern in clinicians that will cause them to be wary of engaging in terminations, and finally it reiterates what it calls the ‘limited circumstances’ in which pregnancy may be terminated. Most people would regard limited to equate to a small number however the DOHNI’s own website indicates that this limited number of medical terminations was 56 in 2011-12.

Contrast this with the work of Marie Stopes that provides chemical terminations in NI up to the 9th week since October 2012. In this regard, if a woman’s physical or mental health is in danger, then surely a woman who has a termination through Marie Stopes must be entitled to the same treatment in a NHS setting free of charge, or she should not be having a termination in NI at all?

Confusion and uncertainty reign for women and for clinicians alike and the latter must be certain they agree with the decision to terminate in every case.

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