



**THE CRIMINAL LAW ON ABORTION
CONSULTATION BY THE DEPARTMENT OF JUSTICE
ON AMENDING THE LAW**

response by
The Workers Party

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Introduction

The Workers Party welcomes the opportunity to address an area of the law in which women are denied the fundamental right to choose how they control their own bodies. The Party is, however, disappointed that this consultation process continues to ignore that right through its repetitive and restrictive focus on two aspects of the criminal law.

A failure to engage in the wider debate is both a missed opportunity to comprehensively address the defects of the current criminal law and may be perceived as a capitulation to the reactionary ideology of the anti-abortion crusade.

The Workers Party recognises that women have the right to control their own bodies, including their fertility, and to pursue all reproductive choices. This is fundamental to any reasonable concept of gender equality in order to achieve full political, social, and economic equality with men.

The Party rejects the paternalistic attitude that regards women as second class citizens incapable of making their own decisions. The Party supports a full programme of secular sex education for schools, free access to contraception, proper health and social care for pregnant women, the provision of appropriate free and quality child care facilities and adequate support for single and low income parents.

The Workers Party believes in a woman's right to choose and supports the provision of free and safe abortion in her own country which will include practical facilities to support women seeking an abortion and quality post-abortion care.

To that end the Party believes that legislation should be introduced with immediate effect to enable women to avail of free and full access to abortion and that in the case of Northern Ireland the mechanism which can most readily and expeditiously facilitate access to abortion rights is the immediate extension of the Abortion Act 1967 to Northern Ireland. Women should have equal access to reproductive healthcare as is available in Great Britain.

Stigmatisation and demonisation

The Workers Party opposes the vile attempts to stigmatise and demonise women who choose to have or who have had abortions and who support the right to choose. We further condemn those who engage in anti-choice harassment and abuse. The reality confronted by women seeking to access an abortion of having to raise funds which are not readily available, to face denunciation and abuse as they attempt to seek advice, to travel to Britain at a difficult time in their lives, and to be portrayed as “murderers” and “criminals” is an affront to concepts of compassion and civil liberty.

A woman’s right

The starting point for the debate is the fact that the law still fails to recognise that it is every woman’s right to control her own body. The Workers Party believes that it is crucial to place women at the centre of the debate. Criminalising abortion harms individual women with unwanted pregnancies but it also deprives women collectively of control of their fertility, leaving them open to disempowerment, violation of their physical integrity, disruption and adverse transformation of their lives together with a profound loss of autonomy relative to men.

Current law

Current law criminalises women, infringes their human rights and discriminates against those women who cannot afford to travel to have an abortion. The 1967 Abortion Act saved women’s lives and brought an end to the tragedies of backstreet abortion. It is clear that substantive equality demands an examination of the ways in which gender roles and positions in society impact upon the ability of women to enjoy their full human rights. It is also clear that the principle of non-discrimination on the basis of sex is an immediate and not a progressive obligation.

The Workers Party believes resolutely in choice. The provision of responsible, secular, medically accurate sex education and confidential access to comprehensive contraceptive services, including the provision of

school and education based services, should be readily available to reduce unwanted pregnancies.

Appropriate options

We recognise that women who are pregnant should have all appropriate options available to them. Women who opt to continue with a pregnancy in the event of the tragic circumstances of lethal foetal abnormality should be afforded all the appropriate treatment and care to enable them to do so.

There should be sufficient care, secular counselling and support for women who wish to continue to full term. Women should neither be compelled to terminate a pregnancy in circumstances where the woman has no wish to do so, nor should a pregnant woman be compelled to continue with a pregnancy where it is her choice to terminate the pregnancy.

As long ago as 1884, Friedrich Engels in *The Origin of the Family, Private Property and the State* wrote:

“The overthrow of mother-right was the world historical defeat of the female sex. The man took command in the home also; the woman was degraded and reduced to servitude, she became the slave of his lust and a mere instrument for the production of children.”

The obscenity and inhumanity of a recent case in the Republic of Ireland of a woman pronounced clinically dead and being kept alive solely for the purpose of continuing the pregnancy against the wishes of her family, necessitating an application to the High Court, serves to produce a vision of women reduced to mere vessels.

To suggest that someone else has the right to make use of a woman's body in such an all-encompassing fashion, without her consent, is a gross violation of her rights. This case coupled with the case of Ms Y earlier in 2014, the tragic case of Savita Halappanavar and others, together with the unworkable nature of the 8th Amendment to the Irish Constitution should be a salutary lesson to those who seek refuge in piecemeal tinkering with anti-abortion law.

The lack of access to terminations for those women who are pregnant as a result of rape, incest or foetal impairment is contrary to the jurisprudence of Article 6 of the International Covenant on Civil and Political Rights.

Restrictive access to termination also engages Articles 3 and 8 of the European Convention on Human Rights. Sections 24(1) and 26 of the Northern Ireland Act 1998 provides that the government of Northern Ireland is under a duty to ensure that law and policy is compliant with the UK's obligations under international human rights standards.

CEDAW

The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) refers to a wide range of issues of discrimination against women, including issues of reproductive health.

The CEDAW Committee has made clear on a number of occasions that amendment of the anti-abortion law in Northern Ireland should be expedited with a view to decriminalising abortion and that it should be ensured that legal abortion not only covers cases of threats to the life of a pregnant woman but also other circumstances such as threats to her health and in cases of rape, incest and serious malformation of the foetus.

The Workers Party, accordingly, rejects the narrow compass of the terms of reference set out in this consultation and is firmly of the view that rather than creating exceptions or exemptions in the criminal law on abortion the government should legislate for the immediate extension of the Abortion Act 1967 to Northern Ireland.

Implicit in this position and while preserving its overriding commitment to a woman's right to choose and its support for the provision of free and safe abortion in Northern Ireland it is the Workers Party's view that free access to the option of abortion should, of course, be available in cases of lethal foetal abnormality and sexual crime but should not be restricted to those grounds.

Conscientious objection

The Abortion Act 1967 provides for conscientious objection in certain circumstances. The Scottish midwives case referred to in the Consultation Document has now been heard by the Supreme Court. It held, in summary, allowing the appeal, that the right of conscientious objection conferred by section 4(1) of the 1967 Act only covered those who were actually taking part in the medical treatment and did not extend to those who carried out ancillary, administrative and managerial tasks which might be associated with the act of providing treatment for the purposes of terminating a pregnancy. On that basis, the two midwives who were labour ward co-ordinators were not entitled to rely on section 4(1) to conscientiously object to delegating to, supervising or supporting staff in the provision of care to patients undergoing abortions.

This is an important decision which, while preserving a right to conscientious objection in certain circumstances, prevents a situation occurring where although abortion technically remains legal real access may be eroded effectively removing the right. The Workers Party has concerns about the parameters and extent of "conscientious objection" and

is further concerned that in the event of “conscientious objection” being provided for such may be used to restrict or diminish ready access to free and safe abortion or to make such facilities and care undeliverable. In such circumstances, it is essential that active measures must be in place to guarantee that access to abortion is ensured. In the event that such a guarantee cannot be given, the right to “conscientious objection” should not be available.

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