Written submission from Councillor Kate Nicholl (ANI0301)

I am Alliance Party Councillor for Balmoral, Belfast South. Abortion is a matter of conscience in my party so I submit this in a personal capacity.

1. In Northern Ireland, abortion is only lawful in the limited circumstances where there is a risk to a woman or girl’s life or the risk of real and serious long-term or permanent damage to her physical or mental health. Rape, incest and fatal foetal anomaly are not circumstances in which a woman can exercise her reproductive rights. Abortion law in Northern Ireland is one of the most restrictive in Europe. It also carries the harshest criminal penalties in Europe.

2. Northern Ireland abortion laws have been found by UN treaty monitoring bodies to be in violation of the various Human Rights treaties the UK is state party to – Westminster therefore has a duty to act to ensure women, who pay the same UK taxes, have access to the same healthcare.

3. Women who need an abortion have to travel to obtain one, or buy medical abortion pills online, which is illegal and leaves them vulnerable to prosecution. As a public representative I have been contacted by several constituents who in need of an abortion. We are fortunate to have many excellent organisations in Northern Ireland to signpost women and families too: Alliance for Choice, Abortion Support Network, Amnesty International and FPA – but this is not enough, the continued criminalisation of abortion is driving women to access abortion services which are either unsafe or not legal, or both.

4. I met with the PSNI on the 31st August 2017 in relation searches connected to the purchase of abortion medication online which were carried out on International Women’s Day 2017. Abortion pills purchased online are WHO approved medications legal in the rest of the UK, but not in Northern Ireland. The PSNI guidance states that an Officer, after researching recipient of package, will visit the home in plain clothes and request a private chat. They are then invited to go to the police station for an interview. If the recipient responds “I have no comment” there is no evidence for them to proceed with. When asked about interagency working, they advised that there is no health or social care follow up after an interview with the police. This is something they would be keen to change. Whilst the options for a service level agreement with a sexual health clinic for referral could be looked at, it was clear the preference is that when material is identified then this would be referred straight to health.

5. Section 5 Criminal Law Act (NI) 1967 creates the offence of withholding information if a person knows or believes an offence has been committed. Section 5 may therefore make it a criminal offence for a healthcare professional or charities who provide pregnancy counselling to fail to disclose information to the police where they become aware that a woman has taken or obtained abortion pills. The ongoing criminal prosecutions in these circumstances are having a wider effect, meaning those who do access online pills, are less likely to feel they can seek medical or support services, which in turn aggravates the risk to their health and wellbeing.

6. The disclosure of confidential medical information to the police and PPS is damaging to the public interest. It risks deterring women from seeking help following a medical abortion using pills obtained online. Where side-effects may be experienced, not being able to seek care aggravates the risk to health and wellbeing.
7. An argument often used to defend Northern Ireland’s abortion laws is that there is neither the political nor public will. I dispute this. In April 2018 Councillors in Belfast passed the motion I tabled calling for the decriminalisation of women who use abortion pills. I tabled this ahead of a court case involving a mother who is being prosecuted for buying abortion pills for her teenage daughter. Parties such as Sinn Fein and SDLP traditionally opposed to any liberalisation of abortion law have moved in recent years. With the Republic of Ireland’s recent referendum paving the way for modern legislation, Northern Ireland is the only place on these islands where women are denied abortion in almost every circumstance.

Belfast City Council Motion

This Council notes the increasing number of women who are accessing abortion pills via the internet, which leaves them vulnerable to prosecution.

Council further notes the impact on healthcare professionals who under Section 5 of the Criminal Law Act (NI) 1967, may have a duty to provide information to the police. Therefore, if a woman requires medical assistance after accessing these pills the threat of prosecution and life in prison is likely to act as a real deterrent thus potentially having a detrimental impact on her health.

Accordingly, Council believes abortion should be regulated like any other medical care and not by criminal law; while still enabling incidents of malpractice to be addressed, as with any other health service, through the general criminal law or medical disciplinary procedures.

A woman who has an abortion is not a criminal, nor are healthcare professionals who care for them, and the law should not treat them as such.

8. Conclusion

The decision to prosecute a mother for facilitating an abortion goes against all major international human rights committees that abortion should be decriminalised. The criminalisation of abortion is discriminatory and archaic. Prohibiting abortion does not stop abortion, it stops safe abortion. Women are let down by laws which see abortion as a criminal justice matter, and doctors are let down by a criminal framework that does not apply to other areas of healthcare. The continued criminalisation of abortion is forcing women to access abortion services which are either unsafe or illegal, or both. A woman who has an abortion is not a criminal, nor are healthcare professionals who care for them, and the law should not treat them as such.

We need the UK parliament to protect women from forced pregnancies by repealing sections 58 and 59 of the Offences Against the Person Act 1861. By decriminalising abortion, Westminster would honour their international obligations set out by The Committee on the Elimination of Discrimination against Women (CEDAW). A human rights compliant framework, governing access to reproductive services, would need to be established to give effect to the 2018 ruling of the UK Supreme Court that the law on abortion is incompatible with the right to respect for private and family life guaranteed by article 8 of the European Convention on Human Rights.

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