

Briefing Paper on Why Abortion Must Remain Within the Criminal Law.

1. Pressures to have Abortions

Poverty, housing insecurity and emotional stresses such as fear of the future or spouse or partner pressure can be the catalyst for women to feel desperate enough to seek to have abortions. Abortion does not solve these problems – it is more likely to create them or make them worse. The answer to these situations is not abortion but appropriate support, whether that be economic, social, counselling or refuge support., and ensuring that all pregnant women have full support in their pregnancy coming to term.

2. Health Risks of Abortion

Significant evidence shows a correlation between women undergoing abortions, and increased risk of harm to their physical and psychological health as well as to their relationships.

Grief for a lost son or daughter may be experienced by both the woman acting out her feelings in expressions of anger or despair and self-harm, and by men who also can experience suppressed grief and anger at what has happened.

3. Rationale for Retaining Abortion within the Criminal Law

a.) The criminal law has two major functions in its role of protection.

i.) Marking the serious nature of an action or omission.

ii.) Deterring undesirable actions or omissions to ensure that they do not take place or to minimise their occurrence.

ii.) Supervising and regulating activities.

b.) Evidence is clear that from conception there is a developing human child in the womb.

There are at least two persons involved (more if there are twins or triplets), the mother and the child in the womb.

c.) Both mother and child deserve support, care and protection.

d.) The purpose of abortion is to kill the unborn child.

e.) If an unborn child is removed prematurely from the womb, because of a serious direct threat to the physical health of the mother or the unborn child, and every effort is made to save the life of the child, as well as of the mother, that may not be abortion.

4. Criminal Law re Abortion

a.) Because of the serious nature of the act of abortion, which involves deliberate killing, it is appropriate that it is included in the Crimes Act and that there be statutory penalties available for judges to impose for those charged and convicted for offences. However, the penalties relate to the regulation of those who authorise or carry out abortions. The Crimes Act protects those undergoing abortions from prosecution. (Ref: Crimes Act 1961 s 183; Crimes Amendment Act 1977 s 113 (2): *'The woman or girl shall not be charged as a party to an offence against this section.'*)

b.) In the late 1970s, there were pressures from some quarters for more ready access to abortion and there were those who were strongly against this, because of the evidence of the nature of the unborn child as a developing human being.

In the Abortion, Sterilisation & Abortion Act 1977, we see the core thinking behind the legislation in seeking to balance these interests, in the Aim stated in the Act, including:

" to provide for the circumstances and procedures under which abortions may be authorised after having full regards to the rights of the unborn child."

(Ref: Abortion, Sterilisation and Abortion Act 1977, Reprint 1 July 2013)

5. Conclusion

- a.)** a more restrictive abortion law should be considered, but if that course is not taken, as a minimum at least the present law on abortion be retained.
 - b.)** administrative provisions for informed consent should be strengthened
 - c.)** the administration of the present law needs to be reviewed to ensure that it is actually followed and does not operate as a 'rubber stamp' process.
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