
ISLE OF MAN: ABORTION REFORM BILL 2017 CONSULTATION

Response from Humanists UK, SEPTEMBER 2017

- 1. What is your name?**
Richy Thompson
- 2. What is your email address?**
richy@humanism.org.uk
- 3. What is your organisation**
Humanists UK
- 4. May be publish your response?**
Yes, you can publish my response in full
- 5. What is your gender?**
Prefer not to say as responding on behalf of an organisation
- 6. What age are you?**
Prefer not to say as responding on behalf of an organisation
- 7. Are you ordinarily resident in the Isle of Man?**
No
- 8. Please provide the first three characters of your postcode**
EC1
- 9. Do you agree that a woman should have the choice to request an abortion up to 14 weeks?**
Yes
- 10. Do you agree that a woman who has become pregnant after being raped should have the choice to request an abortion without having to report the rape?**
Yes

Please provide further comments

Current Manx law places cruel and undue burdens upon women who are the victims of rape, incest, and other unlawful intercourse, contributing to the emotional and physical distress experienced by the pregnant woman. The Office for National Statistics' Crime Survey for England and Wales (CSEW) suggests that only 15% of serious sexual offenses are reported to police and only 21% in cases where a partner is the perpetuator of the abuse. A woman should not have to disclose to anyone that she has been raped in order to access an abortion: be they a police officer, a healthcare professional or a counsellor.

In November 2015, the High Court in Northern Ireland ruled (in the NIHRC case, presided over by Justice Horner) that abortion must be legalised in all cases where a woman is pregnant due to rape or incest. The blanket prohibition of abortion in these cases in Northern Ireland was judged to be in breach of the European Convention on Human Rights (ECHR). This judgement was overturned by the Court of Appeal in June 2017, who decided the questions at hand should be decided by politicians, not lawyers. However this in turn is currently being challenged in the Supreme Court, due to be heard in October, and the ultimate decision could well set a clear precedent that measures to hinder or prevent victims of rape from accessing abortion services are in breach of the European Convention. This logically should therefore also be the conclusion in the Isle of Man.

11. **Do you think that a woman should have the choice to request an abortion if it is detected that the foetus has a fatal abnormality, at any stage of the pregnancy including after 24 weeks?**

Yes

Please provide comments

Any change to abortion legislation on the Isle of Man must include provision for access to abortion in cases where a fatal abnormality is detected in the foetus at any stage of the pregnancy. Without such a provision a woman, upon the diagnosis that her foetus would be incapable of surviving birth, would have no choice but to continue the pregnancy and wait for her that foetus to die, either in the uterus or during the birth. She would then have to go through an induced labour, which would be particularly prolonged and painful owing to the abnormality of the foetus. All the while the world would look on at her as a happy expectant mother, unwise to her physical pain and emotional grief. In addition to being a breach of her rights, such restrictions are a cruel violation of an individual's dignity.

It has been established by the UN through multiple observations, recommendations, and case law that states should remove restrictions that prevent women from accessing abortion in these circumstances. The Isle of Man legislature should take note that the UN Human Rights Committee (UNHRC) has twice determined (in cases brought against the Republic of Ireland) that the denial of abortion in the case of fatal foetal abnormality is a violation of the rights of the pregnant woman to privacy and equality, and to be protected from cruel, inhumane, or degrading treatment. It

should also be noted that in Northern Ireland, the 2015 NIHR Judgment (outlined above) determined, in addition to instances of rape and incest, that the prohibition of abortion on these grounds was unlawful and contravenes the human rights of the pregnant woman. Again, this was overturned by the Court of Appeal, but is presently before the Supreme Court.

Current Manx law allows for terminations up to 24 weeks if there is a considered risk that the foetus will not survive birth or is likely to die shortly afterwards. However, there seems to be no reason why this time limit should have been imposed. It has not brought parity with regulations in England, Scotland, and Wales, where abortion is permitted in cases of foetal abnormality and serious disability up until birth. Only a tiny minority of abortions are carried out after the normal 24 week limit in the UK and the vast majority of such abortions are conducted due to a foetal abnormality. It is often the case that such abnormalities cannot be diagnosed until beyond the 24th week of the pregnancy. In addition to being a breach of her rights, a ban would cause unnecessary physiological suffering to the woman.

Humanists UK has concerns about the use of the words 'child' and 'unborn child' in this legislation to refer to the foetus during pregnancy. This term is problematic as a child is legally afforded a wide range of protections, which a foetus is not. Foetuses are not afforded personhood by any international human rights legislation. We recommend that the wording is amended to reflect this difference and that the word 'foetus' is used throughout.

12. Do you think that there are any circumstances in which an abortion should be provided after the 24th week?

Yes.

Do you have any other views you would like to add about circumstances after the 24th week?

Humanists UK recommends that the language used in the provision of abortion services after 24 weeks is revised. Specifically, that the term 'permanent' is altered to 'significant' injury to health. It is difficult to determine exactly what constitutes a permanent injury and some permanent injuries may be of little significance, while other injuries that are of a severe nature and should count as grounds for an abortion may be expected in due course to mend themselves. For example, it may be in the interests of women who, at the time of their pregnancy, are at risk of suffering severe but temporary illnesses, including feeling suicidal, that they should be able to access abortion services to prevent further injury. The severity, and not the duration, of the injury should be the primary consideration.

Although the term 'handicap' appears in the Abortion Act 1967, which makes abortion accessible in England and Wales, it has become an outdated and pejorative term. We would recommend that this is changed to 'seriously debilitating medical condition.'

13. The Bill proposes that the NHS should routinely provide professional counselling to women at all or any stage of their pregnancy, to make the decision that is right for them about their pregnancy. How do you think this could best be provided?

Free NHS funded abortion at any time

Free NHS funded counselling on-Island

Are there any circumstances where funded off-Island counselling should be considered?

Humanists UK is concerned that the provision for counselling services should not unduly delay a woman requesting an abortion or be carried out by organisations with a 'pro-life' agenda, where the aim of the counselling is to prevent women from seeking an abortion.

Therefore, counselling should be offered, wherever possible, on-Island to prevent women from the delay, cost and additional stress of travelling to the UK for these services. There may be exceptional cases where a woman's need cannot be accommodated by counsellors on the Isle of Man and such a journey may be necessary.

Humanists UK has serious concerns over some of the alternative advice services available, as many are operated by anti-choice religious organisations. Far from being independent and impartial, these organisations promote a specific political and religious agenda, and not the best interests of individual women and their families. For example, in a recent report by Education for Choice, it was found that the majority of 'Crisis Pregnancy Centres' (unregulated pregnancy counselling services predominantly operated by 'pro-life' organisations Life and Care Confidential') gave misleading information on the mental and physical health outcomes of abortion, and/or used inappropriate language and emotional manipulation when it came to discussing pregnancy options.¹ These centres were found to incorrectly claim that abortion increases risks of breast cancer and infertility as well as referring to it in terms of 'wickedness' and 'sin'. Regrettably, some NHS trusts already refer patients to anti-abortion Christian counselling services. It is entirely unacceptable that women who are in the often stressful position of choosing an abortion face the additional burden of dealing with religious groups promoting their own agenda. Counselling and information services should strive to facilitate the most appropriate outcome for their patient. We do not believe public funds should be provided or referrals made from the NHS to services with a religious ethos opposed to abortion in principle. We would recommend that either the NHS or non-directive counselling organisations such as FPA and BPAS are best organisations to provide these services to protect the freedom of choice for Manx women at a time of vulnerability.

¹ Education for Choice 'Crisis Pregnancy Centres: Highlighting misinformation, bias, and poor quality practice in independent pregnancy counselling centres in the UK.'

https://www.brook.org.uk/images/brook/professionals/documents/page_content/EFC/CPCreport/crisis_preg_centres_rept_10.2.14-2hiFINAL.pdf

14. Do you believe that there are some social factors or situations when a woman should be able to choose to have an abortion?

Yes

What factors or situations?

A woman experiencing an unplanned pregnancy should be able to choose whether to continue that pregnancy or not and make her own assessment of whether her life circumstances make that pregnancy desirable or not. Therefore, the examples of permissible social factors are too limited. We recommend that either this provision is removed to allow abortion on request, or at the least the examples are removed and replaced by much broader criteria. These criteria should be worded to allow abortion in cases where the woman has experienced 'a significant change in life circumstances' or 'life circumstances that make the continuation of the pregnancy socially difficult.' Healthcare professionals should be given clear and robust guidance to support women during the decision making process whatever the reason for the abortion.

15. Do you think that the cost of abortion services should be provided by the NHS as part of women's overall reproductive healthcare?

Yes

Do you have any other views on funding?

No

16. Do you believe that healthcare staff should be able to opt out of taking part in an abortion if they have conscientious objections?

Don't know

Comments

The exercise of a right to conscientious objection by a healthcare professional should never prevent or unduly delay a woman from accessing abortion services. Clear guidance is needed to ensure that in rural settings or where referral to another healthcare professional is not practical the woman's right to choose is not compromised. The right to conscientiously object to abortion should extend only to doctors and other healthcare staff directly involved in performing the medical procedure. It should not extend to nursing, administrative or other professionals peripherally involved in the abortion process.

17. Should there be legal protection to prevent demonstrations or protests outside any facility which provides abortion advice or treatments on the Isle of Man?

Yes

Please add any further information about your reasons here

Humanists UK is a supporter of the 'Back Off' campaign, which seeks to have protester-free 'buffer zones' around abortion clinics. In the past few years, women

in the UK have increasingly had to run a gauntlet of forced confrontations with religious campaigners situated directly outside of NHS abortion clinics, causing them to feel unsafe and exposed. Their verbal assaults and exposure to graphic imagery, such as those of dismembered fetuses, are designed to induce feelings of guilt and to intimidate women from exercising their legal right to an abortion. In 2015, the 'Back Off' campaign delivered a petition to the UK Government which was supported by the British Pregnancy Advisory Service (bpas), Humanists UK, the Royal College of Midwives, Women's Aid, Mumsnet and others, and attracted more than 118,000 signatures from people all over the UK. It called for urgent action to protect women from harassment and intimidation from religious anti-choice campaigners. It would be prudent for the Isle of Man to include such measures in this Bill.

18. Is there anything else you would like to tell us about the proposed legislation to reform abortion law in the Isle of Man?

Humanists UK welcomes this Bill. It is a significant step forward for the Isle of Man. It is best, of course, if every child is a wanted child and improved sex and relationships education (SRE), more widely and freely available contraception, and better education and services for young people can all help to reduce the number of unwanted pregnancies. However, for as long as abortion is needed, society should provide safe and legal facilities to provide it. Anything less would inevitably increase the number of illegal and unsafe abortions, or simply lead to women incurring expenses to travel to Britain, and would be an infringement on a woman's right to choose. This right implies that a woman should be able to access abortion at later stages of pregnancy without restriction in her reasons for doing so. Thus, ultimately, we would like to see the 14 week limit in this Bill be higher.

Furthermore, abortion under this Bill would still fall under the scope of criminal law, with women facing a maximum sentence of 14 years' imprisonment if they attempt to procure an abortion outside of the circumstances outlined in this Bill. This makes abortion exceptional - no other medical procedure is governed in this way.

Ultimately, we are in favour of the full removal of abortion from criminal law, with women able to fully determine the timing and circumstances of their pregnancies without fear of prosecution.

About us:

At Humanists UK, we want a tolerant world where rational thinking and kindness prevail. We work to support lasting change for a better society, championing ideas for the one life we have. Our work helps people be happier and more fulfilled, and by bringing non-religious people together we help them develop their own views and an understanding of the world around them.

Founded in 1896, we are trusted by over 65,000 members and supporters to promote humanism. We represent members and supporters throughout the UK and its crown dependencies, including the Isle of Man. Through our ceremonies, pastoral

support, education services, and campaigning work, we advance free thinking and freedom of choice so everyone can live in a fair and equal society.

For more details, information and evidence, contact Humanists UK:

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