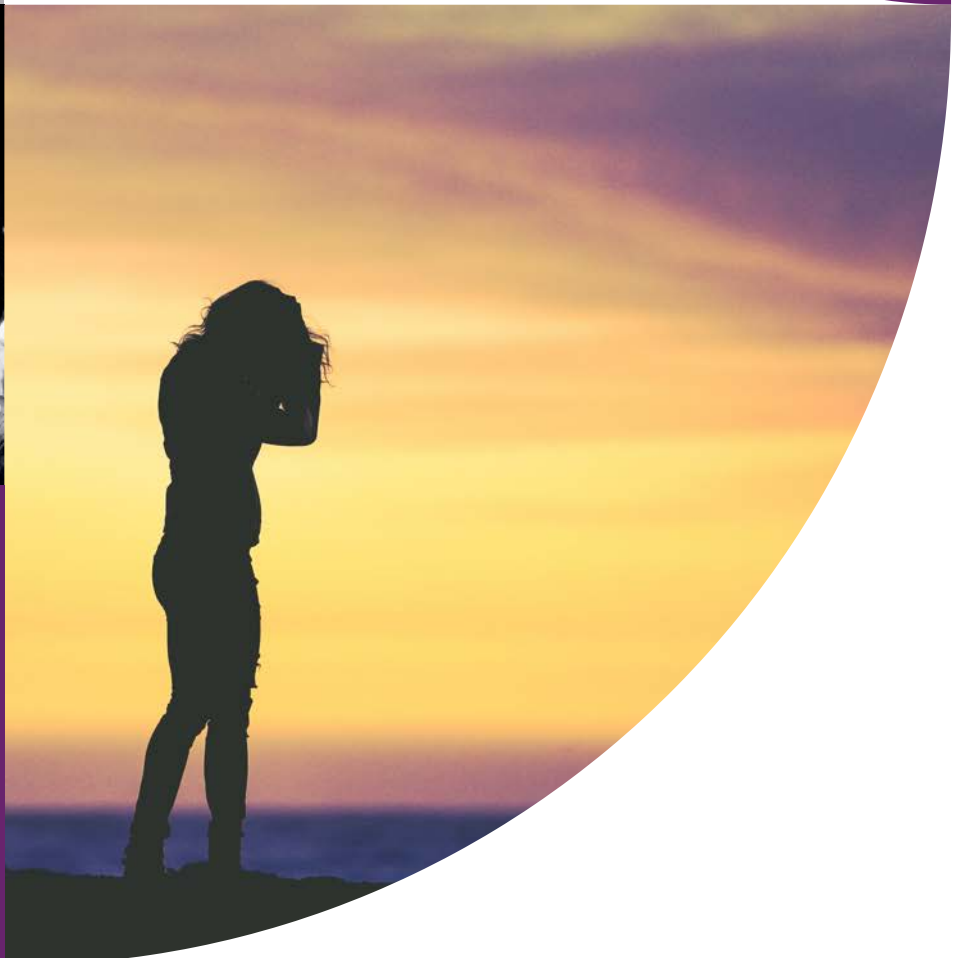


Vulnerable Women, Crisis Pregnancies and the Criminal Justice System



Criminalising Pregnancy

Currently, in 2023, there are two women facing up to life imprisonment for ending their own pregnancies. Under sections 58 and 59 of the Offences Against the Person Act 1861 (and common law equivalent in Scotland), any woman in Great Britain who ends a pregnancy at any gestation, without the approval of two doctors, faces up to life imprisonment. Other criminal offences, including concealment of birth, are used to criminalise women who experience crisis pregnancies. Given the recent increase in the numbers of women facing criminal investigation under these offences, Parliament must reform this archaic legislation which threatens some of the most vulnerable women in our society.

Following an Amendment to the NI (Executive Formation) Act, passed by Parliament in 2019, sections 58 and 59 of the Offences Against the Person Act 1861 (procuring an abortion) were immediately repealed in Northern Ireland, and a moratorium on abortion-related criminal prosecutions came into effect. Consequently, as of 2019, Parliament granted women in Northern Ireland protection from criminalisation, whereas women in Great Britain can still be prosecuted for ending their own pregnancies.

Academics, legal professionals, women's rights groups, and healthcare providers are calling on parliamentarians to work to bring forward reform that will protect some of the most vulnerable women in our society.

The Current Law

While abortion in England and Wales is accessible, it remains a crime at any gestation under a law passed a generation before women gained the vote. Under the Abortion Act 1967, abortions in England and Wales must be certified by two registered medical practitioners, they must take place at a hospital or premises approved by the Secretary of State for Health and Social Care (or at a woman's home prior to 10 weeks' gestation), and women must meet one of the grounds under which abortion is deemed permissible. Despite the broad accessibility of care, there are a very small number of women who end a pregnancy outside of these parameters. They are often vulnerable women, in desperate situations, including living in a context of violence and abuse; many have a complicated obstetric history or a history of mental health problems. In addition to the crime of inducing a miscarriage, further offences such as concealment of birth (section 60 of the Offences Against the Person Act 1861) are also used to criminalise vulnerable women experiencing crisis pregnancies.

Over the past 8 years, at least 17 women have been investigated by police for ending their own pregnancies, though the actual number is likely to be higher. In one reported case, a teenage girl was investigated by police after a stillbirth at 28 weeks, suspected of obtaining an illegal abortion. Her phone and laptop were confiscated during her GCSE studies, causing such isolation and distress that she was driven to self-harm. She endured a long investigation which only concluded when the coroner found that the pregnancy had ended as a result of natural causes.





Impact of the law on women's ability to access healthcare

In a number of cases, women have faced criminal investigation after presenting at hospital for urgent care. Medical bodies are concerned that prosecutions may well deter those women experiencing miscarriages and incomplete abortions from seeking treatment when needed. For some migrant women who are ineligible for NHS-funded abortion care, they may feel that accessing abortion pills illegally is their only option. If these women attend hospital needing help, they should be able to receive medical care and support without fear of prosecution.

Vulnerable women and crisis pregnancies

Research by [Dr Emma Milne](#) of Durham University demonstrates that women prosecuted under these offences are almost always experiencing something coined a 'crisis pregnancy'; a term developed to characterise women's experiences of pregnancy that cause them a crisis.

These women are incredibly vulnerable. For example, they may be living in extreme poverty or an abusive relationship and falling pregnant has created a crisis moment. This crisis can lead a woman to conceal her pregnancy from others and deny it to herself. In desperation and panic, a woman in this situation may attempt to illegally end her pregnancy. In other tragic cases, a woman may find herself suddenly in labour. The baby's death is, therefore, often due to either unknown causes, or unintentional neglect by the mother. In these instances, women need support and care but instead they face prosecution.

We recommend:

- sections 58 and 59 of the Offences Against the Person Act 1861 are repealed to remove abortion from the criminal law.
- section 60 of the Offences Against the Person Act 1861 is repealed to remove the offence of concealment of birth.

This project is supported by:



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