Northern Ireland Assembly

Queen's University Belfast

The Open University

Ulster University

Knowledge Exchange Seminar Series (KESS)

Tensions in Abortion Law and Policy, and the Effects on Women

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Introduction

This briefing focuses on the tensions between the legal and policy framework for abortion, and women's abortion experiences, throughout the UK. In England and Wales, abortion is regulated by the 1861 Offences Against the Person Act and the 1967 Abortion Act. In Northern Ireland abortion is regulated by the 1861 Act but the 1967 Act does not apply, meaning that access to abortion is heavily restricted. While the law is much more liberal in the rest of the UK, abortion remains controversial and subject to significant negativity and stigma.

First, we draw on a recently completed mixed methods study into different aspects of young women's experiences (aged 16-24) of one or more unintended pregnancies ending in abortion in England and Wales. Two key findings will be discussed. Firstly, abortion stigma meant that some women internalised feelings of shame and therefore wanted to conceal their abortion from their families and friends. Secondly, some women experienced distressing side effects following a medical abortion (abortion pills) and benefitted from the support of family and friends. Taken together these findings indicate the importance of medical abortion taking place in a supportive non-stigmatising environment.

Next, we draw on a study of the home use of abortion pills in Northern Ireland and the Republic of Ireland, highlighting some of the ways in which the current law fails either to prevent abortion or to protect women's health and decrease abortion stigma. At a time when it is possible to end a pregnancy using pills that are readily available online, it assesses some of the challenges for effective regulation.

GB Study: Young women's experiences of unintended pregnancy and abortion.

This was a mixed methods study to investigate different aspects of young (16-24) women's experiences of an unintended pregnancy ending in abortion. It was funded by Marie Stopes International. Following an abortion at one of MSI's main centres, a total of 430 women completed a quantitative telephone survey between June 2012 and May 2013. In addition, thirty-six young women were interviewed qualitatively following their abortion. These interviews took place between February 2013 and April 2014. Seventeen participants were then interviewed for a second time approximately five to eight months later. Overall, it is important to note that the majority of all abortions follow contraceptive failures. This finding accords with other research studies (Bury and Ngo 2009).

Table 1: Contraceptive use and non-use at the time of becoming pregnant

	Total women % (n=430)
Not using contraception	43.0 (185)
Pills	30.4 (131)
Condoms	22.8 (98)
Injection	0.9 (4)
Implant	1.2 (5)
IUD	0.2 (1)
Hormonal patch	1.2 (5)
Total women	100.0 (430)

More than half of the women (57%) who had an abortion therefore reported using contraception at the time they got pregnant. Many of the unintended pregnancies were a result of inconsistent or improper use of short term methods, although the most common explanation women reported was: not knowing why their method had failed to protect them from pregnancy (28.7%).

The qualitative strand interviewed many women who were shocked to find themselves pregnant because they did not fully understand why their contraceptive had failed. Their own explanations: 'maybe I missed a pill'; 'it must have been the antibiotics' indicate uncertainty and poor understanding of what went wrong for them. Common themes in the qualitative research were: 'unimaginable pregnancy' due to fertility misperceptions; 'unpredictable pregnancy' due to using contraception and/or emergency contraception; and 'predictable, but not predicted, pregnancy' due to inconsistent contraceptive use. Overall, our findings on becoming pregnant have shown a range of different situations, different behaviours, and different beliefs that can contribute towards experiencing an unintended pregnancy (Hoggart et al 2015).

Experiencing abortion stigma

The young women had experienced a range of emotions at the time of their abortion. Importantly, abortion-related stigma was a feature in all of their recollections of their abortion journey, including for those women who had been using contraception and had experienced contraceptive failure. Women expressed this stigma through blaming themselves.

I just felt (pause) like a bit of a slapper … You're 18 and you're pregnant, that's disgusting to start with, you know, and I guess a few of my friends had done that, and become pregnant and had children, and I was just like, "What are you doing!" And I did really judge them. And then I was there in the same boat, and I was so embarrassed (pause). (Natasha)

Previous research (Lee et al 2004) had noted how abortion negativity influenced young women, and we also found that such negativity was often internalised and appeared to influence how the young women felt about their abortion. Although the degree to which women expressed stigma differed between participants, abortion, in general, was routinely expressed as a 'bad' thing to do. Many women spoke in terms of having 'learnt a lesson'. Shame, a stigma-related emotion, was also commonly expressed:

Every time I think about it I feel ashamed of myself and I think that's just because that's how it's seen isn't it, it's seen as quite… like it's quite a, I don't know whether this is just my opinion but quite like a shameful thing to do. (Laura)

Shame was often connected to concealment of the abortion. In this study it was rare for women to conceal their abortion from everyone, because there was a felt need to disclose, typically to partners, family or friends. However, it was equally rare for women not to have some level of concealment.

I was more scared of if people found out, what they'd think of me, because society nowadays is terrible. A girl does one thing and she's got a name for life, and it's just not fair. I was more scared about what people my own age were going to say. But all the people that I did tell, all my close friends that I did tell, were all really supportive and I didn't expect that. I thought they'd all abandon me and they wouldn't want to know me anymore. (Fern)

Fern explains that when she did decide to talk about her abortion she experienced valuable social support. In this study, there was an identifiable relationship shown between stigma resistance (rejection of feelings of shame), non-concealment, and the positive benefits of social support. Participants valued knowing the experiences of others, and also having the support of family and friends. This included the support of women who had experienced an abortion, thus illustrating – in a different way – how important non-concealment of abortion can be with respect to challenging stigma:

My colleague, who I work with, she's a very good friend of mine, she's had an abortion before and I know how she felt going through it and, but I'd never thought about it in my own sense, as me actually having one. Like, she, I was there when she had hers and when she went through everything with her, and I see how she was, she was very emotional about it, but at the same time, her circumstances were the same as mine ... Watching her go through it was a bit, it made my decision a little bit easier because if she can do it, then I could do that and handle the emotional side of it as well. (Jennifer)

Experiences of medical abortion

Women in the study who had selected a surgical abortion did so for a range of reasons, with the possibility of concealment being an important consideration for many. For those who selected a medical abortion the primary motivation was that the method was viewed as less invasive than a surgical abortion. Women's descriptions of their medical abortions varied. Whilst some recovered quickly and simply expressed relief at a successful outcome, others described being in a great deal of pain, and of becoming very unwell following taking the second medical abortion pill.

I was using sanitary towels because I'm allergic to tampons and I had to keep on changing because it was literally I was bleeding so much, and then I started to feel in a lot of pain, like stomach cramps, and I was just using a hot water bottle, and using Nurofen. And then I was in excruciating pain, I just couldn't sleep, like this

night, I couldn't sleep, I had diarrhoea and I was being sick at the same time for about five or ten minutes, and it was just awful. (Dee)

In this study it was primarily those young women who had not felt well-prepared for their medical abortion who described being shocked. This finding led to a recommendation that abortion providers should try and ensure that all women are given full and accurate information about what they may experience, as well as advice about pain relief and sources of support. There was also one case of an unsuccessful medical abortion in the study.

Didn't really have any bleeding which I knew I should have. Left it for about five days and phoned the helpline and said I still hadn't bled, and they said it needed to wait at least a week. So after that week I waited, phoned them back and said I still hadn't had the bleeding, and then got booked in for a week later to go back to the clinic and have the surgical abortion. They did another scan again once I arrived there and said that the baby had stopped growing at six weeks so something did happen with the tablets, but I just hadn't passed the pregnancy. And then within about ten minutes they took me down to the theatre and had the sedation and then the procedure. (Marlie)

For those women in the study who selected a medical abortion, but then experienced unpleasant side effects, and also for Marlie, the support offered by the clinic and timely access to local aftercare were important.

Northern Ireland and Ireland Study: the illegal home use of abortion pills

This was part of a broader Arts and Humanities Research Council project (AH/L006537/1), which considered the regulation of abortion pills in both legal and illegal settings. The study combined library research and fact-finding interviews with 22 key actors (including service providers, relevant officials, support groups and activists). Two online non-profit collectives formed a particular focus: Women on Web and Women Help Women. Motivated by concerns for social justice and women's health, each provides advice and practical support for women facing unwanted pregnancies, including – where desired – arranging for shipment of abortion pills. Pills are supplied from a reputable supplier, on prescription, following an online consultation, for use within the first nine weeks of pregnancy. Each group offers e-mail support, clear instructions as to use and information regarding when and how a woman should seek necessary aftercare. Each woman is invited to make a donation of at least €70 to support the service but this is waived if she cannot afford it. The safety of Women on Web's service has been confirmed in a number of peer-reviewed publications in medical journals and a court decision (Gomperts et al 2008; 2011; UVS 2012). Women Help Women use the same treatment protocol and demonstrate the same high concern for women's well-being. Far less is known about the many other groups that operate online, the authenticity of the medicines and the quality of information that they offer.

The extent of home use of abortion pills in Northern Ireland

Abortion pills offer a very safe, highly effective means of procuring a termination, with little need for technical assistance from third parties unless complications arise (Cleland and Smith 2015; Kulier et al 2011; WHO 2011). Over half of all terminations reported in British clinics are now performed using pills (DoH 2016) and telemedical treatment protocols are becoming more common internationally (Grossman et al 2011; Wiebe 2013). The practice of sourcing abortion pills online or via black markets has also become increasingly widespread in contexts where access to legal abortion is restricted. While comprehensive data remains elusive, it is clear that home use of abortion pills within Northern Ireland is both widespread and increasing, representing one important reason for the steady and significant decline in numbers seeking access to abortion services in England.

Table 2: Abortions in England by women who gave Northern Irish addresses (DoH, 2016)

2006	2008	2010	2012	2014	2015
1295	1173	1101	905	837	833

In the study, Women on Web and Women Help Women confirmed that collectively they receive around 3,000 discrete requests for advice and support from Irish and Northern Irish women each year (this number is likely to be inflated by the fact that women sometimes confuse the two groups and contact both). The requests came from women from across all regions of Northern Ireland and the Republic of Ireland and from all age demographics (Sheldon, forthcoming). While Women Help Women will not give the numbers of pills supplied, emphasising that it is the requests for help that illustrate the true extent of the need, Women on Web have recently released this data. From 2010-2015, they prescribed pills for 5,650 women from across Northern Ireland and the Republic of Ireland, with the number of online consultations reported to have doubled (from 548 to 1,438) over that period (Aiken et al, 2016). It is not possible to disaggregate this data into Irish and Northern Irish residents. However, in line with their respective populations, it is reasonable to assume that at least a quarter of these women – amounting to over 1,400 over the six years for this supplier alone – came from Northern Ireland.

Mara Clarke is Director of the Abortion Support Network (ASN), a charity which provides support to women facing unwanted pregnancies in Northern Ireland, the Republic of Ireland, and the Isle of Man. She noted an upward trajectory in the number of calls received over the last three years from everywhere except Northern Ireland, where contacts have remained steady. Her assessment was that this trend reflected the number of women accessing abortion pills directly over the internet, with no need for support from ASN. She suggested that information regarding the pills would travel more quickly within the small, close-knit Northern Irish community than elsewhere. This was confirmed by Audrey Simpson, the former Director of the Family Planning Association in Northern Ireland:

There's no doubt that women are using [the pills] much more than they did. It's much more widely known and Northern Ireland has very close-knit communities – knowledge spreads through communities. If you can get it for £60-70, women don't even care if it's safe. As far as they are concerned, it's worth the risk, they just need to end the pregnancy.

It is clear from reported customs seizures in the Republic of Ireland that women are also attempting to access pills from other online suppliers but we know little about the number of such attempts or the authenticity of the pills impounded. Finally, a lucrative black market potentially exists for any product that is desperately desired but not readily legally available, with small blister packs of pills easily smuggled in personal luggage or shipments of other products.

Aiken et al's study of women who had accessed pills through Women on Web offers an important insight into Irish and Northern Irish women's home use of the pills. It found that almost all of the women surveyed felt that home use of pills had been the right choice for them (97%) and would recommend it to a friend (98%), with the emotional response most commonly reported after the abortion being that of feeling 'relieved' (70%). However, women also spoke of experiencing shame and isolation due to the stigma surrounding abortion, engendered by its illegal status. Of particular concern, given the conclusions of the first study discussed above, was the finding that women with the fewest financial resources were more likely to lack social and emotional support during and after home use of abortion pills. There is no published study that compares women's experiences of using abortion pills illegally within Northern Ireland and women's

experience of legal use elsewhere. Ongoing research at the Ulster University will fill an important gap in this regard (Horgan).

Legal and policy responses

Women on Web and Women Help Women act lawfully in supplying abortion pills. A woman who uses the pills may be breaking the law, however criminal prohibitions are rarely enforced: only one woman has been convicted of illegal abortion in the last ten years, with a small number of other cases pending. While it is impossible to know if this represents a new trend towards greater enforcement, what is clear is that – given the difficulties in detecting and proving use of abortion pills – any attempt to increase enforcement would inevitably be highly selective and extremely invasive of privacy. It would also compound the inherently discriminatory impact of current law, which impacts far more heavily on those who lack the financial or other resources necessary to travel to access services outside the jurisdiction.

The criminal law framework cuts against important public health goals in a number of ways. First, it may deter women from seeking medically necessary aftercare in the rare cases where it is necessary. Second, it may discourage honesty in dealings with health care professionals or foster a 'don't ask, don't tell' attitude. Third, it may potentially increase recourse to far less safe abortion methods. In the study, Mara Clarke (ASN) reported contacts from women who had drunk bleach or floor cleaner and from one who had described plans to crash her car in an effort to induce a miscarriage. Further, any attempt to restrict the flow of pills is more likely to succeed in blocking importations from reputable suppliers who package medicines in line with pharmaceutical regulations (making them readily identifiable), potentially leaving women dependent on less scrupulous suppliers. If the supply of pills is disrupted, this may also have the effect of increasing women's use of far less safe, traditional abortion methods. As Simpson notes, above, desperate women may take considerable risks to end unwanted pregnancies. Creating delay in the supply of pills is also likely to result in women seeking abortions later in pregnancy.

While early abortions remain legally unavailable within Northern Ireland, it is likely that the home use of abortion pills will continue. It is accepted that women considering abortion should be offered appropriate support, including non-directive counselling and aftercare and that they may be directed towards high quality information regarding abortion services in other jurisdictions (DHSSPS 2016). This might be extended to include better information regarding abortion pills, and encouragement to visit local health care professionals in order to confirm a pregnancy and for any aftercare, including contraceptive advice. Any such official information should avoid reliance on blanket statements regarding the dangers of online purchase, as these are not sustained by the evidence: some groups supply authentic medication under medical supervision (albeit offered telemedically). However, any attempt to extend the support offered by domestic services would sit uneasily with the obligation to report criminal offences under the Criminal Law Act (NI) 1967, and this is likely to deter women from disclosing (intended) use of abortion pills to local health carers.

Conclusion

Northern Ireland's abortion law relies on a piece of mid-Victorian legislation, with prohibitions backed by the most onerous sanctions in force anywhere in Europe. The law has not stopped all abortions but it has had a profound effect on the conditions in which women can end pregnancies, impacting particularly severely on women who – for financial or other reasons – are unable to travel to access legal services elsewhere. While medical abortion can have unpleasant side effects, robust clinical evidence exists to demonstrate that this is a very safe and effective method of abortion, provided that the woman has authentic medication, clear instructions for how to use it, and knows when and how to access any necessary aftercare. Women benefit

from social support at time of their abortion and any regulatory framework that encourages concealment is likely to contribute to feelings of shame, stigma and isolation.

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