



Abortion Law at a Crossroads

Votes on four amendments to the existing laws on abortion will be taken this Wednesday (15 May 2024) in Parliament. They represent the crossroads at which the law has now reached in the UK: two positive amendments pointing to a better way of handling the matter, and two extreme proposals that could lead to even worse changes to follow.

Which amendments pass will speak volumes about whether Parliament wants to protect the most vulnerable, or if it wants to permit precisely the sort of risky and dangerous abortions that the legalisation of abortion was meant to prevent.

The amendments have been proposed to the Criminal Justice Bill, which will reach the report stage on Wednesday. This means that it will undergo the penultimate round of votes before its third and final reading in the House of Commons.

There are two amendments that would make some improvements to the existing laws.

Ansell amendment: Reducing the time limit from 24 to 22 weeks

Caroline Ansell's amendment ([NC15](#)) proposes, together with 45 MPs, to reduce the upper limit for abortions in most cases from 24 to 22 weeks.

Her amendment would reflect medical advances which happily mean the survival rate for babies born before 24 weeks has considerably improved. The limit was reduced from 28 weeks to 24 in 1990 for precisely this very reason. Since then, there have been several crucial studies charting the improvements in medical care for prematurely born babies.

For example, [a study from 2008](#) found that in a neonatal intensive care unit in London, the rates of babies born between 22 to 23 weeks surviving long enough to be discharged had increased from zero in 1981-85, to 19% in 1986-90, and then to 54% from 1996-2000.

In 2019, [new guidance](#) was released by the British Association of Perinatal Medicine to reflect the fact that more prematurely born babies were surviving.

As stated [on the BAPM's website](#):

'When the last BAPM guidance was published in 2008, it indicated that only two out of ten babies born at 23 weeks (more than four months before their due date) and receiving treatment in neonatal intensive care would survive. Since then, advances in neonatal and obstetric care have improved survival rates for the most premature babies. Today, four out of 10 babies born at 23 weeks and receiving treatment in UK neonatal units are expected to survive.'

Whereas the BAPM's 2008 guidance had recommended not resuscitating babies born before 23 weeks, the updated guidance in 2019 instead permitted doctors in some circumstances to make interventions that could save the lives of babies born as early as 22 weeks.

These are all reasons why Ansell's amendment would simply bring the law in line with the medical advances that ought to change our sense of when a baby is viable outside of the womb. Ansell's amendment would also update the definition of being "a child capable of being born alive" in the Infant Life (Preservation) Act 1929, which was not done in 1990.

Moreover, the UK's current time limit makes it unusually high when compared to many European countries. Our limit is around twice the average limit among countries belonging to the EU. Countries with a 12 week limit include Denmark, Finland, Belgium, Italy, and Germany.

Approval of this change would not imply approval of abortion before this time. The change simply means that some children capable of being born alive who are currently vulnerable to abortion for social reasons in England and Wales, would gain legal protection.

Fox amendment: Abortions due to Down's Syndrome

Sir Liam Fox's amendment ([NC41](#)) would forbid abortion from being sought purely on the grounds of a diagnosis of Down's syndrome beyond 24 weeks.

His proposal is part of a [long-standing commitment](#) to advocate for those with Down's Syndrome, most notably in sponsoring a successful private member's bill, the Down's Syndrome Act 2022. Although the Abortion Act 1967 limits abortions to the first 24 weeks of a pregnancy, an abortion can take place up to 40 weeks if the unborn child is diagnosed with Down's syndrome amongst other impairments. Fox [has said](#): "Many of us believe this is utterly against the purpose of our equality legislation and treats those with Down's syndrome as second-class citizens when it comes to their rights."

Fox's amendment follows the recommendations of the 2013 [Parliamentary Inquiry into Abortion for Disability](#). It concluded that Parliament should consider either completely repealing section 1(1) (d) of the Abortion Act, which allows for abortion on the grounds of disability, or at least to "reducing the upper time limit for abortions on the grounds of disability from birth to make it equal to the upper limit for able bodied babies."

Again, approval of this change would not imply approval of abortion in the case of children capable of being born alive who have other forms of disability. It would simply extend legal protection to at least some disabled children and witness to the equal dignity and humanity of at least some children with disabilities. It might also be that this amendment, if passed, would act as a catalyst in practice or in law to broader protection for children with disabilities, at least among those who are capable of being born alive.

Johnson amendment: Decriminalising abortion up to birth

Diana Johnson's amendment ([NC1](#)) would abolish the offences of 'unlawful procurement of a miscarriage' and of 'child destruction' on the part of the expectant mother herself. For example, if

someone illegally supplied abortion drugs outside the terms of the Abortion Act 1967, it would not be an offence for the woman to take these drugs, irrespective of her stage of pregnancy.

The explanatory statement says that it would “not change any law regarding the provision of abortion services within a healthcare setting, including but not limited to the time limit, the grounds for abortion, or the requirement for two doctors’ approval”. It would appear to be more moderate than full decriminalisation because it seems to make no change to the existing offences that make it illegal for a doctor to perform an abortion after 24 weeks in most cases.

But this proposal is in fact far more dangerous than it seems.

As the [majority of abortions are now taking place at home](#), rather than in a healthcare setting, it is likely that this proposal will remove the main deterrent against women self-administering an abortion late in the pregnancy. This exposes the mothers to serious medical risks, not to mention the trauma of having an abortion at home, possibly while completely alone, to a nearly full-term baby. It would also, of course, lead to many more viable babies having their lives ended well beyond the current legislation’s 24 week limit.

Since the amendment does not place any limits on when, or why a woman could perform an abortion on herself, the proposal would therefore open the door to abortion for any reason whatsoever, such as for the sole reason of not wanting a baby of a particular sex.

Creasy amendment: Decriminalising abortion up to 24 weeks and remove custodial sentences beyond 24 weeks

Stella Creasy’s amendment ([NC40](#)) would make even more extreme changes. It ‘would decriminalise abortion up to 24 weeks, avoiding the need for some of the requirements of the Abortion Act. It would ensure that late term abortions outside the Abortion Act do not result in custodial sentences’, as the explanatory statement says.

The Johnson and Creasy amendments remove important deterrents against women performing late-term abortions at home, for any reason whatsoever, and makes it far harder to prosecute any woman who performs an abortion beyond the legal limit up to birth. With these disincentives removed, it is likely that these amendments will make late-term abortion at home more frequent.

As they make it easier for dangerous abortions to take place at home, both amendments will, by a tragic irony, lead to the dangerous, late-term ‘backstreet abortions’ that the legalisation of abortion was meant to prevent in the first place. Their amendments will lead many more mothers to endanger their own lives.

While Johnson’s amendment may seem less extreme, by increasing the likelihood of backstreet abortion, it increases the likelihood of later amendments to enable doctors to provide abortion at any stage of pregnancy for any reason. There is no logic to a law that permits self-induced abortion but does not permit abortion by a qualified practitioner in the same circumstances.

Creasy’s amendment will also make it easier to cover up infanticides. Section 60 of the Offences Against the Person Act 1861 makes it an offence to conceal the birth of a baby by hiding its dead body after birth. By preventing a custodial sentence from being applied using Section 60, the

amendment would remove a deterrent against infanticide, and would make it easier for abortions to be performed up to 24 weeks without prosecution by those committing abuse or human trafficking.

Conclusion

The Anscombe Bioethics Centre strongly condemns the amendments by Creasy and Johnson. We endorse Fox and Ansell's amendments in so far as they lessen the harm caused by the legalised provision of abortion in the UK. The latter are motivated by a desire to recognise the equal dignity of the disabled with the able bodied and to ensure that viable babies are given the chance to live.

As mentioned in [an earlier press statement](#) about proposals to provide death certificates to parents who suffer a miscarriage: 'Our society's growing support for parents who suffer the loss of their baby is already pointing to the truth: that a life lost is mourned for because it is a life that must be cherished, not ended.'

Which amendments Parliament chooses to accept will reveal whether our legislators believe that unborn lives are indeed to be cherished and backstreet abortions are to be prohibited, or whether both women and their unborn children are to be put at greater risk in pursuit of the political ideal of 'decriminalisation'.

END

Notes to Editors:

- Any part of the above can be quoted as coming from our Public Bioethics Fellow, Dr Mehmet Çiftçi.
- For more background information on this issue, see the Anscombe Centre's [Bioethics in Brief on Abortion](#).
- For more information on the Anscombe Bioethics Centre, see our website: www.bioethics.org.uk
- For interviews or comment, contact: media@bioethics.org.uk