

Evidence re: Criminal Justice Bill 2023

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On Tuesday 28 November 2023, Labour MPs Dame Diana Johnson and Stella Creasy tabled amendments **New Clause 1** and **New Clause 2** respectively to the Government's Criminal Justice Bill. Both amendments would decriminalise abortion and thereby completely remove it from the criminal law.

As a supporter of the SPUC, I would like to take this opportunity and lay out arguments against these, as I and many others believe, dangerous decriminalisation amendments.

New Clause 1

“For the purposes of the law related to abortion, including sections 58 and 59 of the Offences Against the Person Act 1861 and the Infant Life (Preservation) Act 1929, no offence is committed by a woman acting in relation to her own pregnancy.”

I would like to raise the following points in relation to the proposed changes:

- Removing the proposed offences for women would remove any legal restrictions on women regarding abortion. A woman could abort for any reason, including sex-selective abortion.
- Dame Diana says the clause will not change the time limit “in a healthcare setting”. We need to bear in mind, however, [more than half of abortions are now carried out by a woman at home, under the pills by post policy](#). A woman who induced her abortion at home using pills (or any other method) at any stage of pregnancy, including just before natural birth, would commit no offence.
- While the amendment applies only to a woman in relation to her own pregnancy, if self-induced abortions were never investigated, it is difficult to see how a third party could be charged in cases of coercion.

New Clause 2

“(1) The Secretary of State must by regulations make whatever changes appear to the Secretary of State to be necessary or appropriate for the decriminalisation of abortion, in line with the recommendation in Paragraph 31 of

the CEDAW General Recommendation No. 24: Article 12 of the Convention that “When possible, legislation criminalizing abortion should be amended, in order to withdraw punitive measures imposed on women who undergo abortion”. (2) Regulations under subsection (1) must— (a) provide for the repeal of sections 58, 59 and 60 of the Offences Against the Person Act 1861, (b) provide that no offence under these regulations or any other legislation is committed by a person complying with the requirements of subsection 1 of the Abortion Act 1967, (c) provide that no offence under these regulations or any other legislation is committed by a person acting in relation to their own pregnancy where they have been coerced into taking that action, (d) provide that no person acting in relation to their own pregnancy may be sentenced to a custodial sentence, and (e) provide for alternative offences in relation to acts of abortion where the woman has not, or is suspected to have not, consented to the abortion. (3) The Secretary of State may by regulations make any provision that appears to the Secretary of State to be appropriate in view of subsection (1), or (2). (4) If regulations under subsection (1) are not approved by both Houses of Parliament within three months of this Act receiving Royal Assent, then sections 58, 59 and 60 of the Offences Against the Person Act 1861 are repealed. (5) A statutory instrument made under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

- The [vast majority of convictions under sections 58 and 59 of the ‘Offences Against the Person Act’](#) are against men who cause the death of an unborn child by attacking a pregnant woman or giving her abortifacients against her will. Repealing them will stop such men being brought to justice.
- Section 60 of the ‘Offences Against the Person Act’ deals with the crime of concealing the body of a baby who dies before, during or after birth, and is currently used when infanticide is suspected but cannot be charged due to lack of evidence. Repealing it, as this clause proposes, means that a woman would commit no offense if she self-induced abortion at full term or killed her baby during birth.
- Similarly to New Clause 1, the repeal of sections 58 and 59 would make abortion legal at any time, for any reason.

These amendments seek to remove abortion from the criminal law, and prevent women from being prosecuted for illegal abortion. However, examination of the issue shows that:

- These amendments do not solve the problem of women being prosecuted – the true cause of recent prosecutions is the pills by post policy.
- Repealing law relating to abortion would allow women to induce their own abortion at any time for any reason – an extreme and dangerous proposal which greatly puts women at risk both in terms of their mental as their physical health and there are no safeguarding measures against coerced abortion. New Clause 2 would also remove a key means to prosecute infanticide.
- Repealing abortion law removes the way to prosecute abusive men who end a pregnancy through violence or deception.

- Cases where stillbirths have been investigated by police have involved minors where serious safeguarding concerns merit investigation.

These amendments should therefore be rejected.