**Executive refuses to face the truth about abortion**

Belfast Telegraph

By Eamonn McCann
*Wednesday, 2 November 2011*

The law on abortion in Northern Ireland is 150 years old this month and it's never been in more of a mess. Every year, abortions are carried out in the north which are, on the face of it, illegal, while women travel to Britain for abortions which could legally be carried out here.

No one can say for certain what proportion of the abortions carried out here are unlawful. The Department of Health refuses to record the reasons for abortions in the north and the 'pro-life' lobby wants to keep it that way.

The 1861 Offences Against the Person Act made it a criminal offence - punishable by life imprisonment - to unlawfully attempt to procure an abortion.

The operation of the Act was developed over the years, most significantly in the 1939 Bourne case, in which a doctor was prosecuted for arranging an abortion for a 14-year-old pregnant as a result of multiple rape.

Dr Bourne was acquitted on the grounds that a provision introduced in 1925 exempting abortions carried out to save the life of the mother covered situations where continuing the pregnancy might 'make the woman a physical or mental wreck'.

This interpretation governed abortion practice across the UK until superseded by the 1967 Act as far as England, Scotland and Wales were concerned. The 1967 Act wasn't extended to the north. As a result, the Bourne judgment remained the last word here.

Rulings in the High Court of Northern Ireland in a cluster of cases in the 1990s spelled out what the law now said. The 'K' case, in 1993, involved a 14-year-old pregnant by her boyfriend, who was threatening to abort herself, or commit suicide.

The court ruled that an abortion would be legal because allowing the pregnancy to continue might result in her becoming 'a physical or mental wreck'.

The court ruled in the 1994 'A' case that the pregnancy of a severely mentally disabled woman could legally be terminated after hearing psychological evidence about the implications for her well-being.

The following year, the court gave permission for an abortion for a disturbed 16-year-old who was in the care of the state.

In each of these cases, the courts ruled that an abortion here would be legal. But in each, the woman or girl had to travel to England.

This suggests that abortion is legal in the north in far more cases than is generally admitted and that a considerable number of the women who travel to England, or elsewhere, for terminations would have a legal right to terminations here. Ten years ago, in June 2001, following on from the rulings in 'K', 'A' and other cases, the Family Planning Association went to the courts asking for clarification.

After considerable to-ing and fro-ing, the Department of Health issued draft guidelines for consultation in 2007. These were rejected by the Assembly.

Redrafted guidelines were then published for consultation in 2008. 'Final' guidance was issued by the Executive in March 2009.

In May last year, however, the Society for the Protection of the Unborn Child challenged these guidelines in the High Court. In July, re-revised guidlines were issued for consultation. The final date for responses was now set as October 2010.

On September 16 last - 11 months after the closing date - Jim Allister asked Health Minister Edwin Poots "when the guidance on the termination of pregnancy will be published".

Poots replied: "I am currently considering the guidance... As yet, no date has been set for its publication. I hope to be in a position to advance this matter shortly."

Shortly can be a long time in the abortion politics of the north.

About 80 and 100 abortions are carried out in the north every year. Anecdotal evidence and what we might call 'the word in the ward' strongly suggest that a large percentage of these are for reasons of foetal abnormality. These, unlike abortions carried out because of the implications of the pregnancy for the women, are illegal.

Thus, it is likely the case that most of the abortions carried out in the north are illegal, while most of the abortions which take place elsewhere would be legal if carried out here.

We cannot put figures to any of this because the Department of Health doesn't record, or collate, the reasons for abortions carried out in the north.

On July 1, Jim Allister asked Edwin Poots when he would review this practice.

Poots replied that this would have to await publication of the aforementioned guidelines.

They don't know - and they don't want to know - because they know they can't handle the truth.

Read more: <http://www.belfasttelegraph.co.uk/opinion/columnists/eamon-mccann/executive-refuses-to-face-the-truth-about-abortion-16071483.html?r=RSS#ixzz1d8RCGImC>