Press Statement – 3 July 2020

Proposed amendments to the Domestic Abuse Bill in relation to abortion

There is broad cross-party and cross-community support for the proposed Domestic Abuse Bill, due to receive its Third Reading on 6 July 2020. However, invidious amendments have been proposed which would use the bill as a vehicle to expand abortion provision. Two such amendments have been proposed:

- **NC28:** This would amend the Abortion Act 1967 so that abortion could take place outside a hospital or licensed premises if the woman were in an abusive relationship. This amendment effectively enshrines in law the practice of ‘home abortion’ that was introduced by the government purportedly as a temporary measure in response to the COVID-19 pandemic. The amendment shows no awareness that home abortion would be requested and procured within the controlling environment of the abusive partner, rather than in a place away from home. This seems to offer less protection to women, not more.

- **NC29:** The second proposed amendment is much more radical and aims at nothing less than to ‘decriminalise abortion’ by repealing Sections 58 and 59 of the Offences Against the Person Act 1861. The amendment would introduce a crime of ‘non-consensual termination of pregnancy’. However, this would not cover abortions that were coerced by a partner but ‘done in good faith by a registered medical practitioner, registered nurse or registered midwife’ (where ‘done’ may perhaps mean simply prescribing abortion pills after interacting remotely with someone presenting as a woman wanting an abortion).

It is a mistake to imagine that the Offences Against the Person Act 1861 is a piece of Victorian legislation that stands alone or that could be changed without affecting subsequent legislation. The 1861 Act has been amended repeatedly and is presupposed by all subsequent developments in abortion law in England and Wales. The Abortion Act 1967, for example, makes abortion lawful under certain conditions but presupposes that otherwise it would be unlawful. If NC29 were passed into law then the restrictions and safeguards of the Abortion Act 1967, such as they are, would cease to apply. The current shape of the law, while offering little protection to the unborn child, does at least signal to some extent that abortion is a serious moral issue, set apart from routine healthcare choices, and that this is a decision that, if regretted, can never be reversed. NC29 would signal greater normalisation of abortion and make it less set apart from interventions such as routine surgery.
It should be noticed that the amendment does not in fact ‘decriminalise’ abortion, despite its stated intention, as it does not repeal the Infant Life (Preservation) Act 1929. It leaves in place the crime of ‘child destruction’ where the infant is at more than 28 weeks gestation (unless the child is disabled or abortion is believed to be necessary to prevent death or grave permanent injury to the mother). However, the rhetoric of ‘decriminalisation’ as used by the British Pregnancy Advisory Service, among others, clearly applies to abortion at all stages of gestation. Amendment NC29 is a staging post to the repeal of all protections for the unborn child at all stages of pregnancy. By the same logic, if abortion is not in need of special legal justification then those who refuse to participate in abortion are not due any special legal protection. So called ‘decriminalisation’ would lead to discrimination against conscientious doctors, nurses and midwives who wish to serve their patients without being coerced into participation in the grave injustice of abortion.