



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Domestic Abuse and Family Proceedings Bill:
Evangelical Alliance

25 June 2020

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Ms Linda Dillon (Deputy Chairperson)
Mr Doug Beattie
Ms Jemma Dolan
Mr Paul Frew
Miss Rachel Woods

Witnesses:

Ms Dawn McAvoy	Evangelical Alliance in Northern Ireland
Mr David Smyth	Evangelical Alliance in Northern Ireland

The Chairperson (Mr Givan): I welcome David Smyth, head of the Evangelical Alliance in Northern Ireland, and Dawn McAvoy, who also works with the Evangelical Alliance.

Mr David Smyth (Evangelical Alliance in Northern Ireland): Thank you, and good morning.

The Chairperson (Mr Givan): As with the normal sessions, this will be recorded by Hansard and published on the Committee's web page in due course. David, I am going to hand over to you. I think you are going to give an outline of your submission, and then we will go straight to questions.

Mr Smyth: Thank you so much. It is my pleasure to be here this morning. I also want to thank you for all that you are doing as our public representatives at this very difficult time on these very pressing and urgent issues, and on all the other issues. I genuinely thank you for all that you are doing. I want to say at the start that we are not experts on domestic violence and we do not claim to be. We speak on issues of human dignity and we believe that every person, young or old, male or female, regardless of whatever identity markers we choose to use for ourselves, carries infinite worth and value as human beings.

I want to speak to the broad principles and maybe make some points that have not been raised. I know that there have been very detailed responses from lots of women's groups around the statistics, and they know this area better than I. Nothing here is to undermine or minimise abuse, mental health or manipulation or control. Very broadly, we welcome the intention of the Bill to address the harmful behaviour that is not already captured under existing offences, to recognise those patterns of behaviour in law and to address those situations where the police are called, turn up and fail to be able to do anything of substance, potentially.

I will raise the issue of definitions and the definition of harm, recognising that this Bill does not come into effect in a vacuum. As people who engage in the public square at this time, we recognise that

there is potential in this Bill for a failure to maybe understand or appreciate different cultural or religious dynamics within a family or a particular community. We would not want there to be confusion or conflation of issues where there is genuine psychological coercion going on or where there is maybe misunderstanding of dynamics particular to a culture, a community or a family. We say that in a context where almost any idea can be deemed to be harmful by someone else, and there is a cancel culture quite prevalent at the moment.

Sorry, I should have introduced my colleague Dawn. I will let her do that properly herself, and I will come to a point that Dawn will speak to more fully with her expertise.

I just flag a concern with the word "reckless" in the Bill. We all have acted in ways that are reckless at times, with behaviours, actions or words that are not wise or kind or good, and I ask the Committee to consider how that is defined as different to a criminal offence and that threshold for criminal recklessness as opposed to a character trait or a relationship that is not healthy or good but which may fall below the bar of reckless or criminal. Relationships, obviously, are core to how we do life as society together, and what is often missing, and what legislation often fails to address, is a work of grace in our hearts and minds and the quality of our relationships. We recognise that there is a need for legislation but that it can only take us so far, sometimes, in the quality of the relationship.

We are not concerned about the use of this legislation in genuine cases. We want to see vulnerable women, men, young people and old people protected from dangerous and abusive behaviours. However, if key terms are left undefined or there is a lack of safeguards to prevent malicious or vindictive use of it by either party in a toxic relationship, we are concerned that the legislation itself could be abused. The public could then end up losing trust or confidence in it, and genuine victims might lose out in that. If every view that you disagreed with could be defined as harmful, that might not do victims much good.

On a point of clarification, I ask the Committee how this legislation can be prevented from being conflated or confused with behaviour that may be unstable or immature or jealous or undesirable but, again, is not necessarily criminal. Could this be applied to instances of bullying or to where a friendship has gone sour with young people or to a premature relationship? How will those thresholds for criminality be worked out? I suppose that is the question.

In the faith context, again, I am aware that there is often a faith illiteracy or a cultural illiteracy. We do not understand those dynamics sometimes. This could be applied to a mentor/mentee relationship in a faith setting, such as that between a youth leader and a young person, where that youth leader was accused of a pattern of behaviour that was deemed reckless because of a failure to communicate something in particular or in communicating certain teachings of that faith that are deemed to be harmful. I am thinking about that faith setting where we talk about discipleship and accountability and growth, and I wonder whether there could be an unintended consequence around that.

One other point that I will make specifically before handing over to my colleague Dawn is around the right to claim a trial by jury. I confess that I am a solicitor from a previous life, and I am curious to understand the rationale behind that. I presume that it is because the judiciary can be trained up and can understand more particularly the dynamics at play in these very complex cases and that maybe getting a conviction from a jury is more difficult. The only other example that I can think of is terrorism and the Diplock courts, where people were not allowed to be tried by a jury. I just wonder whether there is a potential issue of maintaining actual and perceived access to justice and fairness, which, again, are important for confidence in the legislation so that it is effective and reaches those who need its protections most.

I will hand over to Dawn to speak about coercion and abortion.

Ms Dawn McAvoy (Evangelical Alliance in Northern Ireland): Thank you, Chair and everyone else, for inviting us to be here today. I am a researcher for the Evangelical Alliance in Northern Ireland, and I head up the Both Lives Matter campaign that the Evangelical Alliance co-founded.

I will speak on coerced abortion in the context of the draft legislation. The Westminster Government have recently decriminalised abortion in Northern Ireland by repealing sections 58 and 59 of the Offences Against the Person Act 1861 and amending section 25 of the 1945 Criminal Justice Act. As you will know, the 1861 Act provided legal protections for women in pregnancy and for their preborn babies up to the point of their being capable of life outside the womb. That is defined as 24 weeks, but we know that babies as young as 22 weeks now survive. The offence of child destruction protects the baby from the point of viability to birth.

A termination of pregnancy outside the recently introduced legal framework for abortion remains a criminal offence, and there is an obligation on our legislators to ensure that those protections for women in pregnancy and their unborn children are provided. In addition, the UK, as a party to the Istanbul convention, is required under article 39 of that convention to ensure that abortion performed on a woman without her prior and informed consent or understanding is criminalised. Article 46 names, as an aggravating circumstance, a particular circumstance that makes a person vulnerable. Pregnancy would come under that clause.

The draft Bill, whilst seeking to address in the broadest sense possible any and all behaviour that would, or is likely to, cause physical or psychological harm, including fear, alarm and distress, does not address specifically the state of pregnancy and the significant physical and psychological harm that may be caused to a woman when pregnant, including by forced or coerced abortion.

Women's Aid, the largest charity offering life-saving support to women facing intimate partner violence and domestic abuse, and Best Beginnings, a charity that aims to give children the best possible start in life, have stated clearly and publicly that 30% of domestic violence starts or gets worse during pregnancy and that 40% to 60% of women experiencing domestic violence are abused whilst pregnant. More research needs to be carried out to provide comprehensive statistics for forced and coerced abortion. One national study in America estimated that up to 64% of women who aborted felt pressured to do so. Data reported by the Guttmacher Institute indicates that 30% of women have an abortion because someone else, not the woman, wants it.

The draft legislation is largely based on the Scottish legislation. Evidence was given during Scotland's legislative process by a local charity that works with women who have had abortions. It cited a figure of 75% being bullied or pressurised into abortion.

Before coming here today, I did a brief internet search for stories relating to assaults in pregnancy that are because of pregnancy and designed to forcibly terminate pregnancy. I encourage — if that is not the wrong word — you to do the same. It was shockingly easy to find those stories and to see and hear the horrific nature of those attacks. It is clear that forced and coerced abortions occur. It is evident that pregnancy can trigger and aggravate abuse, and it is a moral and legal obligation for society to protect women from such behaviour. Women who have chosen to continue in their pregnancy deserve legal protection. That protection must also recognise the particular and significant harm done to them by the attempted or forced ending of their pregnancy. When a pregnancy is forcibly ended, there should be recognition of what has been taken from that woman. Women deserve compassion and justice for the loss of their baby's life, and any criminal offence should reflect in its penalties the seriousness of what has been done to her.

The question is not whether this should be done — as I said, there is a legal and moral obligation — but how. Will the Committee choose to deal with this specific and important issue in the Bill? We encourage you to grasp the opportunity to do so.

The Chairperson (Mr Givan): Thank you, Dawn and David, for the presentation. I will pick up on some of the points made. David, you mentioned a definition of harm that recognises the cultural and relational dynamic, and you made the point that any idea can be seen to do harm. I am trying to put this into the context of domestic abuse legislation, given that I have come up with ideas and people said, "No, that would be harmful". We will always have public discourse about policies, and debating these things is what we should be doing in a free society, without the accusation of harm being caused.

I will bring this into the domestic environment to try to encapsulate what you are talking about. I will speak about my home. It is safer to do that rather talking about anyone else. I have three daughters, and, in bringing them up, I seek to guide and advise them. We are heading into the years when they are starting to become a little more challenging. Measures and time are taken to say, "No, I will not allow you to do that" or, "I do not allow you to go there". You seek to develop those parameters to develop good behaviour. In that context, is that the cultural or relational dynamic that you are talking about and how you would define harm? We need to be careful that we do not go so far that parents, for example, are not able to provide guidance. At times, that will mean challenging behaviours and even challenging what young people who grow up in your home think.

Mr Smyth: Yes, I think so, Paul. There is a specific exception for parents in the Bill. However, that type of dynamic is exactly what I am talking about. I want to be very careful. I do not seek to excuse any behaviour that is exploitative, manipulative or coercive, but I recognise that relationships come with a degree of honesty and accountability and rubbing up against each other sometimes. I do not

want a particular cultural or religious context to be misunderstood. No doubt, we can look at lots of homes or dynamics and think that something is harmful.

I get that the legislation has to talk about harm, absolutely. I just wonder about the bar for criminality and how that is maintained. People's relationships may not be perfect, healthy or particularly good, but that does not make them criminal. How will the law, Committee or Assembly differentiate between the two so that misunderstandings and cultural differences are not caught up in the legislation?

The Chairperson (Mr Givan): Of course, harm can manifest itself physically and obviously. In that space, it is easy to say, "That is wrong". Of course, it is wrong. The difficulty comes when people indicate psychological or emotional harm. In the context of the home and all of the dynamics in play there, what does that mean? How do we define harm? That leads me to the discipleship issue. Again, I will talk about me because that is safest. I am involved in my church and take a Sunday school class. I have groups of young people in third, fourth and fifth form to whom I provide what you would call mentoring. However, I teach things that other people fundamentally disagree with. Indeed, some say that teaching those beliefs is harmful. Where in the legislation is the cause for concern that warrants what you said about being careful about discipleship and mentoring?

Mr Smyth: I think that it is the part about "personal connection" and that a pattern of behaviour is set by as few as "two occasions". There may be circumstances where that is absolutely appropriate and may result in a conviction for behaviour that happened twice when there was a personal connection. However, could that also be confused with genuine circumstances, which a third party may perceive as being harmful or reckless, where a person has communicated or, to use the words in the legislation, failed to communicate something?

Our experience, as I said, is not in that particular area, but we are experienced in dealing with contentious issues in society, and we are often accused of holding or furthering views that are, according to someone else's view of the world, potentially harmful. We want a plural public square where people can have the freedom to articulate what they believe. I am slightly nervous that some of that could be caught up in the Bill, although that is not its intention. Nothing that we say is designed to undermine the very real circumstances that the legislation seeks to address.

The Chairperson (Mr Givan): Your comment about a third party is an interesting one. I disagree fundamentally with some teachings in the Koran, for example, and I can look at other aspects of the way in which we look at the world. It is about making sure that the legislation does not interface with third-party viewpoints. You are saying that the legislation should bite where there is a direct correlation with that personal connection.

Mr Smyth: Yes. Our views on some of these definitions of harm and recklessness when applied to a criminal threshold would be shared with those from other faiths and with those from no faith.

The Chairperson (Mr Givan): We will want to pick up with the Department the right to the claim for a trial by jury to see whether it happens in any other types of cases and whether it is an area worth exploring.

Mr Smyth: Yes. It seemed unusual. I would like to know more about that. I was just asking the question. The only example that I could think of was the Diplock courts and terrorism. I am happy to be corrected on that. I just was not sure. It may be linked to the point about judicial training or jury training — I know that these are complex and difficult crimes on which to get a conviction. We want to see people being brought to justice, but I was curious about that and wanted to raise it. That was all.

The Chairperson (Mr Givan): No, that is helpful. I want to pick up on the areas that Dawn covered: what is in the Istanbul convention; and the need to make it an offence where an abortion has taken place without the consent of the mother. According to the statistics that you gave us, 30% of violence starts or gets worse during pregnancy. That is a pretty shocking figure. All these figures are disturbing and shocking, but the fact that 30% of violence starts or gets worse during pregnancy really stands out for me, as does the fact that 40% of women who experience domestic violence are abused during pregnancy. Those are appalling figures.

In looking at how that might be covered, I want to get things right in my mind. This is not about pro-life or pro-choice, which is a separate debate. What you are talking about is not part of that debate, on which I have a clear view, as do you and other members. This is abortion where the woman has not consented and has been coerced into it, so it is not a matter of pro-life or pro-choice. It is around

coercion. On the obligations around the Istanbul convention, can you just refer again — you mentioned the relevant article in the convention and the responsibility for the UK Government in respect of that.

Ms McAvoy: Article 39 talks about forced abortion and forced sterilisation and says:

"Parties shall take the necessary legislative or other measures to ensure that the following intentional conducts are criminalised:

a performing an abortion on a woman without her prior and informed consent".

Article 42 talks about:

"Unacceptable justifications for crimes, including crimes committed in the name of so-called 'honour'".

That is pressure for abortions, perhaps sex-selective abortions, or shame within a faith community. Again, you are talking about the context of vulnerable women in pregnancy in cultural circumstances. Article 46 then lists a series of aggravating circumstances and says:

"Parties shall take the necessary legislative or other measures to ensure that the following circumstances, insofar as they do not already form part of the constituent elements of the offence".

Point c of that talks about:

"the offence was committed against a person made vulnerable by particular circumstances".

Again, I suggest that pregnancy is an aggravated circumstance, given the statistical evidence about abuse because of pregnancy or during pregnancy. Those are all listed in the Istanbul convention that the UK Government are obliged to bring into legislation. That has not happened as yet across the UK. It strikes me as sad and disturbing when you look at countries where abortion has been decriminalised and then there are attempts to bring in exceptions. You are right that this is not about pro-life or pro-choice. I suggest that this is about choice, as opposed to being pro-abortion. In these circumstances specifically, those women have chosen to either be pregnant or continue in their pregnancy, and someone else is forcibly removing their choice. There is no excuse on the grounds of a pro-choice/abortion argument to not deal with those offences and the ultimate need to criminalise such behaviour.

The Chairperson (Mr Givan): That takes me finally to the point around making that an offence and then reflecting the gravity of the nature of that offence, which is ending life. Have there been any thoughts as to where that offence should be? In other jurisdictions, such as the Republic of Ireland, for example, the sentence is 14 years. Are there any thoughts around what that should look like?

Ms McAvoy: Unlike David, I am not legally trained, but looking at what is available and what was available under the law that has been removed, given the fact that a woman has chosen to be pregnant or continue in her pregnancy, there is the harm done to her, aggravated by her pregnancy and the loss of the life that she has recognised and wanted. Whatever the sentence would be, it should be significant to register the seriousness of the offence.

I will use an example from Canada, in the context of us now being in a decriminalised scenario similar to Canada. In 2014, a young woman, Cassandra Kaake, was assaulted. She was seven months pregnant, and she and her unborn daughter Molly were killed. Under Canadian law, there was no recognition for Molly's life, and Cassandra's mother and Molly's father solicited the help of their MP to bring in legislation specifically looking at forced abortion and actually referred to reckless behaviour, so potentially not even an intent to harm either mum or baby. They failed to garner support, because of concern by abortion activists that it would impact on the decriminalised elements of abortion.

Looking at examples of the lack of legislation, and the failure of the Bill to legislate, despite the legal requirement, I throw it back to our Department of Justice. I encourage it to be creative in this and to acknowledge this. Changes have been made to the abortion framework, but this is about women who have chosen to be pregnant, and they deserve that protection in law.

The Chairperson (Mr Givan): That has been very helpful and clear. Thank you.

Mr Beattie: Dawn, thank you for that. It was very clear.

David, I am very struck by what you said. There is a real nuance to this that we need to look at. We need to delve into the harm and the recklessness piece in particular, because you are absolutely right. People will perceive harm by something you say, whereas we all come from a different era, so we might not see it. I am struck by that, and it has been mentioned before. It is something we need to look into.

I have to say, with the evidence given, the real headline is chapter V and those four sentences that we have just talked about. I am clear about where you stand in regards to abortion. It is difficult not to see this as an abortion issue, but an issue about domestic abuse. The Istanbul convention is something that the UK Government are going to sign up to. They should have signed up to it, and we hope they will in the future. Abortion law is completely CEDAW (Convention on the Elimination of all Forms of Discrimination Against Women)-compliant, and domestic abuse legislation has a clear piece on coercive control. Whether you want to narrow it down to abortion or other forms of abuse, it is still there.

What strikes me, with this non-physical abuse, coercion and abortion, is that there is a mirror to this. The mirror is non-physical abuse, coercion and stopping a woman from seeking an abortion. We have the absolute opposite to this. We could have, very simply, the same household, which may have strong religious views, and the woman seeks to have an abortion but is stopped by her partner because of their religious views. That would be coercion as well. We have a real issue with regard to that. In many ways, what we are talking about here is strengthening the abortion legislation. What that could lead to is that, if a woman can prove that she did not have an abortion before 12 weeks because she was coerced by her partner, she could take that to the courts in order to have the abortion after the 12 weeks. There is a mirror image to what you have said in regard to that, and that is the coercion that stops women from accessing abortion. Do you see that, Dawn?

Ms McAvoy: I absolutely see that, and I would just respectfully push back and refer to those statistics. What I do not want is to get into the quagmire of pro or against abortion. I agree that there is a mirror aspect that the legislation would provide cover for. Even though my position is very different, I would not want a woman who has not chosen to be pregnant and to continue her pregnancy to not have the legal protection which, as you say, could be flipped to offer protection to a woman who says she has been coerced into abortion. I do not believe that any woman should be coerced either way; that is what I am saying. So we agree on that. My concern is that, given the statistics about the relationship between pregnancy and domestic violence, the abortion issue makes it very muddy, and then the coercive element of the potential pressure to abort does not get resolved.

Mr Beattie: I get that, Dawn. I guess that what I am looking at is future-proofing everything. We have a statistic now, but what is it going to be in five or 10 years' time? We have never had abortion legislation. Now that we have it, will that mean that there will be more coercive control by partners in the future because their partner can access abortion? Those are the figures of here and now, but they are not those of five or 10 years' time. We could flip this completely. It is quite clear in my mind that trying to coerce somebody to have an abortion is absolutely against the law as the legislation stands. The big thing for me is that, if they do manage to coerce someone to have an abortion and it comes before the courts, do we have stiff enough and strong enough sentencing to address the damage that that coercion has done? I am concerned about trying to put in a bespoke piece that talks just about coerced abortion and does not talk about coercion to stop women from accessing an abortion. I think that that is covered in the legislation as it stands.

Ms McAvoy: Do you not think that there is a need to specify pregnancy as an aggravating factor?

Mr Beattie: I think that there are lots of aggravating factors. We need to look at what aggravating factors are. We can look at many aggravating factors, and that is one of them. The seriousness of it is important, and that is why I say that it is a sentencing issue. Women can suffer severe mental harm from being forced to carry on with a pregnancy; that is another aggravating factor. I am very conscious that we come from different sides of the argument here. I am just very conscious —.

Ms McAvoy: We are both reflecting Istanbul, in what you are saying and in what I am saying. Istanbul talks about being either coerced to abort or coerced to not abort. While our views on abortion might differ, what we are both saying is contained in the Istanbul convention. I am suggesting that, rather

than waiting for Westminster to deal with it, our own Department of Justice could address it specifically for ourselves.

Mr Beattie: So, in essence, you are asking for a clause on coercive control with regard to abortion or denial of abortion.

Ms McAvoy: With regard to pregnancy, whatever shape that would take. I have been pregnant four times and was quite ill with two of those pregnancies. That is a vulnerable category. We have just recently been talking about perinatal and antenatal mental health. There is a particular category of vulnerability within women's state of pregnancy that could be reflected in the Bill but has not yet been.

Mr Beattie: With the mirror to it. The reason that I go into this, Dawn, is that the reality is that this will be the headline. With due respect, David, this is what people will look at from your evidence. They will look at this piece of what you are asking to put into it. It is important that people understand that there is a mirror to everything that you have said here, which is that coercion that stops women from accessing an abortion is equally as harmful as what you have explained. However, you have been very clear, and I thank you for that.

Ms McAvoy: Thank you. I think that it comes back to definitions.

Ms Dillon: Thank you, David and Dawn, for your presentation. David, I mentioned earlier that we will have the Bar Council here next week. You said that you come from the legal profession yourself. You are right to be concerned about some of it. Other organisations have also said that there should be some concern around that. I think that we should ask the Bar Council about that next week as well. As you say, you have a legal background.

One of the organisations that we spoke to earlier raised an issue in relation to clause 12, which is the reasonableness defence. I think that, in this Bill, we have to err on the side of the victims. On the reasonableness clause, the Attorney General used the example of a young girl who was mixing in crowds that her family did not approve of having her phone or access to the car removed, which I think is reasonable, but she could see that as harmful and report it. Whilst it would be extremely traumatic for anybody to be arrested in those circumstances, it is much less traumatic than the instances that we are dealing with. All the statistics are out there to show that there is a very low rate of reporting. Even when it is reported, just like with most violence against women, including sexual violence, there is an issue with making it to court and getting through the process. This legislation is trying to address some of those issues. I accept what you are saying and understand your concerns, but I still think that we have to err on the side of the victim. I think that we should ask the Bar Council about that next week.

The purpose of this legislation is to address the fact that we do not currently have legislation that gives enough protection to victims of domestic abuse. It is just not there, and everything that we see shows that. The damage that that does to wider society is immeasurable. If you work with families, you will, of course, know all of this. We really need to put into this legislation things that will provide the sufficient tools for us to be able to get successful outcomes when a case gets to court or the PSNI. Do you see a way of wording it that addresses your concerns and my concerns? Do you have any solution to that?

Mr Smyth: I fully accept that this deals with a very complex area of non-physical, emotional coercion and abuse. There is a degree of subjectivity to that. I fully accept that some victims will not see that they are victims of abuse. This is complicated. I absolutely do not envy your role in this, so I want to be very careful. I agree that, if we are in doubt, we want victims to be protected. In this difficult space, it would be really helpful if, as a preventative measure, a Bill like this were to be accompanied by investment in education on prevention of abuse within relationships and the quality of relationships. That is what we want. We want to see relationships where people are treated with dignity and humanity and allowed to flourish in their homes, friendships and communities. I am always cautious about talking about legislation that impacts on personal relationships. The law can take us only so far: then, a degree of culture or some preventative measures can be brought in. The Church and many others have a role to play in building good relationships across society.

I do not envy your role. I am just nervous about the criminalisation of someone who, potentially, has been reckless. I have no doubt that I have been reckless in some of my words and actions in the past. We have all been unwise in some of the things that we have said or done, particularly when in a new relationship, the early stages of a relationship or when figuring someone out. I am nervous about this being used to criminalise people who may be immature, who may just not have the social skills or who

may have difficulty communicating. Our concern is the criminalisation of someone because they do not have some social ability in their personality or within their capacity.

Ms Dillon: To be fair, I have that concern about all legislation. The people who are in our prisons show that you are 100% right. That needs to be looked at and addressed. Work needs to be done with the Public Prosecution Service (PPS) on understanding young people who have limited capacity.

Mr Smyth: Yes, and I recognise that there are safeguards in place. The PPS uses two tests: the public interest test and the evidential test. That might be an important counter to some of this. The police might turn up and see something that is not good but not consider it to be criminal. Our concerns are in that area.

Ms Dillon: To be fair, I absolutely agree with you on some of those issues.

Dawn, I noted down some of the issues that I want to raise. I agree with much of what Doug said on a specific provision for abortion. We could make specific provision for someone who is forced to continue with a pregnancy. You talked about the Istanbul convention and forced sterilisation. We could say that we need to go down that road. What is not already provided for in the legislation? My understanding is similar to Doug's. I accept all the statistics that you give us on pregnancies. It is an issue out there. All the other organisations highlighted the same issue, and it would be a concern. Nobody wants anyone to be forced to have an abortion through coercive control. Yes, that is much more damaging than many other types of coercive control. However, I do not see how that is not covered in the legislation as it sits. Maybe I am not seeing something that I should be seeing. For me, what is there should absolutely protect a woman in pregnancy, whether she wants to continue with the pregnancy or end it. Therefore, I am concerned about putting this specific provision in. Doug is right: that will become the issue. The Bill is about domestic abuse and protecting some of the most vulnerable in our community. These are people who suffer some of the most heinous attacks in the very place where they should be safest, carried out by the very people who are supposed to love and protect them.

I want the headline to be about domestic abuse. You are right: this is not a pro-life or pro-choice argument. I absolutely agree with you on that, but it could become that, and that would become the issue. If this is not provided for in the Bill and we need to look at it, fair enough, we need to look at it. However, if it is provided for, why are we making an issue of it in this Bill? That is my only concern about this. I do not want to get into the issue of pro-life or pro-choice, and you are right not to get into that element of it, but that is my concern. I just want to highlight that and put this to you, Dawn: is it necessary to have a specific provision, and, if so, why?

Ms McAvoy: I will respectfully push back and say that, if it is not necessary, why do other conventions raise it as an issue that should be addressed? As I said to Doug, given the context of how prevalent abuse is due to and because of pregnancy, it would be a sad state of affairs if, because of an ideological perception or a cultural push for one law over another, pregnant women, who are vulnerable, were not recognised as being in a state that makes them particularly vulnerable and prone to being abused.

It could come down to what sentencing was in place to reflect the gravity of the abuse, given the circumstances of being pregnant, the extra harm done because of that and, potentially, from losing a wanted child. I mentioned the Offences Against the Person Act 1861 because the relevant sections cover the predominant legal offences in cases of being pregnant and losing a baby due to assault, an abortifacient or whatever that may be. What other legislation is in place? All I ask is that we be shown the legislation that reflects the gravity of that offence and recognises what a woman has gone through and lost because of her pregnancy.

Ms Dillon: Would it be sufficient if there was something on sentencing?

Ms McAvoy: Potentially, if it is a first offence and comes only under the offence of assault — I do not mean that pejoratively — it could be a fine. Given how a woman who has chosen to be pregnant feels about that pregnancy and that loss, I suggest that a fine does not recognise the harm done to her.

Mr Frew: Tell me if I cut out, because I have cut out a couple of times in the last 10 to 15 minutes. Hopefully, I will stay online and you can hear me OK.

My question is to Dawn, who raises two very important issues: the vulnerability of pregnant women and coerced abortion. The latter could unite people on the clause because, surely, even people who class themselves as pro-choice will not want the choice to be removed. We should look at this — I certainly will — to ensure that no one is forced to do something that they do not want to do, especially if it takes away life.

Dawn, whilst it could be an offence to force someone to have an abortion, is there anything that you have looked at that we could place in legislation to prevent the loss of life? I do not mean the deterrent of a criminal conviction after the event. Is there anything that we can place within the legislation that could prevent that loss of life?

Ms McAvoy: Thank you, Paul. It comes back to the point that David made. The legislation talks a lot about training and education, particularly around male and female relationships, which, primarily and statistically, are what domestic abuse is about. There is a lot about relationship education, including information on what pregnancy is and to help men to understand that it is wrong to abuse a woman and that, when she is pregnant, there is another life that must also be considered. It comes down to education, information and training from school age and up.

Mr Frew: I will come on to pregnancy in a wee minute. Should a responsibility be placed on providers, for example, to train, question, provide questionnaires or conduct surveys to ensure that they are 100% sure that no one has been coerced into their facility or establishment?

Ms McAvoy: Yes.

Mr Frew: How would that be legislated for? How could we get a form of words to meet that?

Ms McAvoy: Earlier, David shared the information that his wife is a midwife. Already, in antenatal appointments, women are asked, privately, whether their relationship is healthy. I am not sure of the exact wording used. There are already examples of catching and being prepared to respond effectively to cases where women are pregnant and there is, potentially, abuse. When it comes to abortion clinics or providers, yes, there should be parameters in place to confirm that a woman is making an informed, free choice, recognising the wide range of circumstances that can lead to a woman feeling pressurised or bullied or not feeling that she has a free choice to continue in her pregnancy. Significant work could be done to ensure that it is genuinely about choice and not about being forced or coerced.

Mr Frew: On vulnerability during pregnancy, I do not know whether you have looked at clause 9 — I do not mean to bounce this on you — which is:

"Aggravation where relevant child is involved".

Clause 9(1) states:

"It may be specified as an allegation alongside a charge of the domestic abuse offence against a person ("A") that the offence is aggravated by reason of involving a relevant child."

Would it be neat and sufficient to add on an amendment to that? You could insert the words "an unborn child or children" and then, of course, you have all the other paragraphs to clause 9. I have not had time to go through them all to see whether they fit neatly with the relevant child or unborn child amendments, but you could very easily, I think, insert the phrase "unborn child" to the likes of clause 9, which could then help to safeguard and protect a pregnant woman during her pregnancy. Have you looked at that or is that something that you could look at? I will certainly look at it now that it has been raised. There are two distinct issues here: someone being forced to have an abortion; and a woman's vulnerability when she is pregnant.

Ms McAvoy: I think that that is what I feel most strongly: there are two separate issues. There is the especial vulnerability, physically and mentally, because a woman is pregnant, and there is the separate issue of the state of pregnancy making it medically accurate to say to say that there are two lives, at least. Given the conversation that we have had here, I see the tension around that wording. If the word "child" is going to be a red flag, personally I do not mind whether the word is "embryo", "foetus" or "child", using biological or medical language, whatever that may be. Certainly, recognising the presence, I think, could be interesting for the Committee and the Department to look at.

Mr Frew: Thanks very much for your attendance.

Miss Woods: I will make a comment, because this has turned into a bigger discussion on abortion than is in the submission. Before I move on to talk about a specific example that David used in the submission, I agree with many of the comments made by Doug and Linda on this. There is a wide range of behaviour and abusive relationships that impact on women's reproductive choices, and that includes causing pregnancy through rape, denial of access to contraception or contraception sabotage.

On what we have been discussing, the UK Government are implementing the Istanbul convention; we passed an LCM on that on Tuesday. It is, therefore, a matter for healthcare and for proper medical and clinical practice and guidance, as it is for other health matters, with abortion services. Paul mentioned this, too, and it is already in place, as Dawn said. For information, the RQIA standards have already set processes in place to ensure that all women and girls seeking services for abortion do so voluntarily. That is already in place, so if there is a gap, we need to look at it with the Committee for Health rather than through a Bill from the Justice Department. Given all those factors, and the LCM, is there an issue with the Istanbul convention? Does it not sufficiently cover vulnerability and that is why you are seeking something in this Bill?

Mr Smyth: What has changed from this time last year is the removal of sections 58 and 59 of the 1861 Offences Against the Person Act, which we believe protected the woman and the unborn child from a coercive abortion. Removing those sections has created a vacuum, and that is what we were seeking to raise. I hear what Doug and Linda say, and by no means do we want the headline of this to be about abortion. I accept that that could be a consequence. However, given the vacuum, we raised the issue. We want to be heard loud and clear saying that we support the broad principles of the Bill. However, there is a nuance that we want to bring to it.

Sorry, Dawn, you may have something to add on this. To me, it was the removal of the legislation in October of last year that has prompted us to say that we feel that there is now a gap that was previously covered around coercive control and abortion.

Ms McAvoy: I do not think that anyone could deny that there is a gap. The law that has been removed is what would have been used primarily in cases where a pregnant woman was assaulted and then had a miscarriage.

Mr Smyth: Or abortion pills were slipped into her drink, or whatever it might be.

Ms McAvoy: Whatever that may be. What we are saying is that there is a gap in the legislation. It is up to you whether you want to address the gap.

I am not denying any of the good parts of the Bill; I am merely seeking to address the gap that we saw. It is not denying anything that you said about reproductive rights; neither was it my desire to turn this into an abortion conversation, per se. It is a desire to address the very real issue of domestic abuse related to pregnant women and the impact of that on the pregnant woman, which could lead to her being forced to abort or miscarry due to an assault. The legislation, wherever it may be, should recognise harm done to the woman, and I am suggesting that it could be an element of this Bill.

Miss Woods: OK, I appreciate that, but I have a problem with the gap, given that there are standards, regulations and practices in place medically, plus, the Istanbul convention is coming in through the Domestic Abuse Bill at Westminster. Would you still see a gap in our legislation, given that the LCM that we passed on Tuesday covers Northern Ireland?

Ms McAvoy: Well, unless I am not understanding, what is the criminal offence?

Miss Woods: It is the gap that, based on the Istanbul —.

Ms McAvoy: Yes, the Istanbul convention says that there should be a criminal offence of forced abortion.

Miss Woods: Yes.

Ms McAvoy: You are saying that, with the Istanbul convention being signed up to, there is no longer a gap. I am then asking you what the criminal offence would be, because if there is a criminal offence, that is fine. I am asking whether there is a criminal offence that recognises forced or coerced abortion. I am not talking about forced birth or forced pregnancy. This conversation, as I said at the start, is not about pro-abortion or pro-life. I am respectfully asking what legislation is in place if, for example, I was out today, pregnant and was assaulted and lost my baby — a forced abortion. What legislation would protect me? You are saying that there is no gap, and if there is not, that is wonderful, but what is the legislation? I genuinely do not know.

Miss Woods: No, the legislation has not come in yet. The Domestic Abuse Bill is being looked at in Westminster, and anything relevant to the Istanbul convention will automatically apply to Northern Ireland. I am not saying that there is legislation in place, but what I am trying to get at is the need for it to be referenced specifically in the Northern Ireland context when it is already coming in through Westminster. It is more about —.

Ms McAvoy: So it would automatically come into Northern Ireland when Westminster deals with it? Given that we are always charged with dragging our heels, why would we not look at it in a way that is unique to our circumstances, through our political representatives whom we have democratically elected to speak on our behalf and legislate for us? If you are suggesting that you do not deal with it as a Justice Committee and let Westminster deal with it on our behalf, which I think is what you are saying, that is a decision for the Committee to make.

Miss Woods: OK. I will move on to David, on one point that you made, just to get a bit of clarity. Some examples were given of a person discouraged from seeking help with anger issues if they were likely to be reported to the police, and a mentoring youth leader who is accused of a reckless pattern of behaviour because of their failure to communicate or of communicating faith teachings deemed harmful. Will you elaborate on that? What faith teachings could be deemed coercive or abusive behaviour? Have you any examples on that?

Mr Smyth: There is a movement towards defining and creating a new category of abuse called spiritual abuse. There is a direction of travel around that in GB that we would not be supportive of. If abuse — emotional, physical, sexual or whatever it may be — happens in a faith context, we would absolutely like see it dealt with as abuse. Going back to the broader context and culture that we live in, someone's genuinely held orthodox beliefs can be deemed harmful by someone who does not share them, and simply stating those beliefs, or encouraging someone in them, could be deemed harmful. There can be lots of examples. Those most likely to be contentious concern sexuality and women's reproductive rights, as you might call them. Those issues will be the most contentious culturally. There is potential for genuine misunderstandings about how different cultures and religious groups approach contentious issues and how they see the world completely differently. The heat often starts on a very controversial issue, but you need to take a huge step back to see how we see the meaning and purpose of life, the value in each other, family and community. It is a whole different way of seeing the world, not just seeing one issue, and that is where I would have concerns, Miss Woods.

Miss Woods: Thank you.

The Chairperson (Mr Givan): OK, thank you. Linda?

Ms Dillon: Just a very quick point. David raised the education stuff earlier. That is a recurring theme, and we are going to deal with that.

I want to go back to Dawn to take some of the heat out of it. If there is something that we need to look at around an unborn child dying as a result of domestic violence, or as the result of the kind of assault that you gave as an example, we should speak to the Department about it, but I am concerned about it being specific. If it is about pregnancy, that is different because it allows for all situations. It allows for someone who is forced to carry through her pregnancy or is forced to end it. It allows for someone who is assaulted and, as a result, loses their baby. I would find it hard to believe that anybody on this Committee would be unsympathetic to that. It is something that we certainly should bottom out, look at and see what the issues are or whether there is some way of dealing with it. However, I certainly would have an issue with the very specific reference to one element of pregnancy. Those are my concerns, but we should look at it in the broader context.

Ms McAvoy: Thank you.

The Chairperson (Mr Givan): Undoubtedly we will look at it, but we need to have all the information to have a proper discussion, and members have rightly raised issues that we now need to consider. For example, will the LCM that we passed only this week cover what the Istanbul convention is saying, and therefore is Westminster going to legislate for exactly that issue, and are there laws already in existence? We will have to bottom all that out, and you made your point very well and were quite right to do so. I often find that consensus breeds bad law. It is better to have an engagement — a disagreement even — to tease out issues so that you can make an informed decision, and you have done that very well.

Sinéad Bradley is not here; she has had problems connecting online because of broadband issues. She is watching and sent a message to Christine; this is how we are now communicating. *[Laughter.]* I do not know whether this is the analogue way; it is probably still digital. I should have said earlier that she wanted to put on record her thanks to the previous witnesses.

On your evidence, Dawn, she said

You raised a direct question regarding pregnancy. Sadly, it is acknowledged that pregnancy can be a trigger for domestic abuse, an important point to which I believe the Committee has a responsibility to give full consideration. The issue of coercive control around abortions is also well made.

I am reading that into the record for Sinéad's benefit, and on that we will conclude. Thank you very much.

Ms McAvoy: Thank you.

Mr Smyth: Thank you so much for your time.