

Legal uncertainties surround abortion law options, committee warned

Rotunda master says woman died flying home due to termination complications

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Pat Leahy Political Editor



The Oireachtas Committee on the Eighth Amendment has been warned that there are significant legal uncertainties inherent in all of the six options that the committee is examining for changing the law on abortion.

However, some of the greatest uncertainties surround the options favoured by Fine Gael Ministers and many TDs.

The committee has identified six possible options for repealing or replacing the Eighth Amendment and commissioned legal opinion from a senior barrister, Nuala Butler SC, on each.

The option of replacing the amendment with a constitutional provision which allowed for abortion in specified circumstances would be “likely to prove very difficult”, as grounds such as rape or fatal foetal abnormality would present “practical problems arising as to how they should be established and to whose satisfaction”.

The option of repealing the amendment and publishing legislation to specify the grounds on which abortion could be permitted was “really a political rather than a legal exercise”.

There would be no legal obligation on the Oireachtas to enact the legislation, which might not even pass, Ms Butler said.

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She said simple repeal of the amendment would provide “a degree of immediate legal certainty” in the short term. The law governing abortion would be the existing Protection of Life in Pregnancy Act, which could be amended by the Oireachtas in due course.

Asked if repealing the amendment could lead to “abortion on demand”, she said it was highly unlikely that the courts would prevent the Oireachtas from specifying the grounds for abortion.

Force miscarriages

Meanwhile, at yesterday's hearing of the committee, Dr Abigail Aiken, a Texan academic, said there was evidence women in Ireland were using coat hangers and drinking bleach in order to force miscarriages.

Interviews with women using the Women on Web website to order abortion pills online outlined several ways Irish women attempted to induce miscarriages.

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“These include coat hangers, starvation, high doses of vitamin C, strenuous exercise, large quantities of alcohol, scalding water, drinking bleach, throwing themselves down stairs,” she said.

Prof Fergal Malone, master of the Rotunda Hospital in Dublin, told the committee one woman had died in recent years while flying home from the United Kingdom due to complications following a pregnancy termination.

“We are aware of at least one of our patients from Ireland who died following a complication from a surgical termination of pregnancy while travelling between Ireland and a centre abroad,” he said.

Risks to mothers

“Forcing patients to travel between two jurisdictions, particularly when dealing with travel between islands, will inevitably increase the risks to mothers’ physical health and wellbeing,” he said.

Dr Rhona Mahony, master of the National Maternity Hospital, said, “The presence of the Eighth Amendment in our Constitution creates unacceptable clinical risk and should be removed.”

She said from a medical perspective the constitutional right to life for the unborn creates the possibility that “clinical decisionmaking may be delayed and distorted as clinicians ponder the law rather than medicine”.

Dr Mahony said 60 patients from the Holles Street maternity hospital travelled for a termination of pregnancy following a diagnosis of foetal anomalies last year, and 43 patients had done so this year.

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