

Life-and-death decisions

Should we prosecute someone who travels abroad to buy an organ for transplant on the black market? Ros Dodd talks to Birmingham Research Fellow Dr Sheelagh McGuinness about the complex legal and ethical issues surrounding medical tourism.



Unless the mother's life or health is at risk, abortion remains illegal in Ireland. As a result, thousands of women travel from Eire to the UK and elsewhere for terminations.

In the UK, as in the rest of the world, it is against the law to buy a human organ – typically a kidney – for transplant, but that's no deterrent to those willing to fly to the Indian sub-continent to obtain one on the black market.

The legal and ethical issues surrounding such cases – so-called medical tourism – are at the centre of research being carried out by Dr Sheelagh McGuinness as part of her Birmingham Fellowship.

'My undergraduate degree was in legal science and philosophy as I had an interest in both law and philosophy and wanted to work in both areas,' explains Sheelagh, who is based in the Centre for Health Law, Science and Policy at Birmingham Law School. 'I've always been interested in social ethics and bioethics – particularly the medical process and the impact it can have on life decisions.'

Those decisions sometimes involve having to seek medical assistance abroad in order to avoid breaking the law at home or else submit to backstreet practices. Sheelagh examines the prevalence and specifics of medical tourism – and the legal implications.

'For example, I look at people who travel to buy organs and whether we should prosecute them – someone who, say, goes to Bangladesh or Pakistan to buy an organ for transplant and then returns to the UK. The commercial sale of organs is illegal in the UK, so do we need to change the law in order to deal with people who travel abroad to buy them instead? Also, should we be prosecuting brokers and others involved in the practice?'

Sheelagh's research project is still in its early stages, but as it develops she hopes to start working with policy-makers. Her long-term aim is to contribute to changes in legislation.

The law, as we know, is often complex – and even when something is legal, like abortion, it may still be effectively unattainable. In the US, for instance, abortions can be almost impossible to obtain because there are few or no providers due to the political or moral climate.

'My research looks at barriers to access of health care services, such as abortion, and one barrier is a lack of providers. In the US, the anti-abortion lobby has impacted on the provision of services. There are also Targeted Regulation of Abortion Providers (TRAP) laws that heavily regulate abortion providers and clinics. It might be that you can only provide abortions if you have admittance rights to the local hospital. But if the local hospital is Roman Catholic, they won't accept someone who's had or is about to have an abortion. So the idea is to make it difficult for providers to operate.'

Sheelagh is interested in whether we can see similar anti-abortion strategies emerging in the UK.

'MPs are considering plans to introduce "independent counselling" for women who wish to have an abortion. In other countries where such counselling – which is independent of the abortion provider – has been introduced, it has led to the creation of sham "crisis pregnancy agencies". These centres try to persuade pregnant women not to have a termination – so they are not really independent at all.'

An important part of Sheelagh's research into medical tourism is the extent to which it undermines domestic legislation – and hinders attempts to overhaul certain laws: When you have a website called Women on Web offering online medical abortion pills to women living in countries where there are no safe abortion services, or if women circumnavigate the prohibition laws in Ireland by seeking terminations elsewhere, how much impetus is there to bring about a change the law?

'It makes it difficult to campaign for law reform,' observes Sheelagh. 'In one way, it's undermining the law, but in another way it's preventing law reform because we don't have women dying in Ireland from botched abortions, which might well pave the way for repeal of the law.'

There is also the issue of how abortion and assisted reproduction clinics in poorer countries contribute to an 'internal brain drain' in those countries, which impacts on the domestic population.

'There's some evidence to suggest that in India, for example, a lot of the medical talent is focused on private hospitals to which the local people don't have access. There's been a lot of discussion about "brain drain" and whether we should restrict doctors from India and Africa working here or in the US so that they spend some time in their own countries.'

'So I'm looking at questions surrounding ethical global justice as well as legal issues, but focusing on the UK and looking mostly at UK law.'

Sheelagh says that to influence legislation 'is what we're hoping for eventually', adding: 'With organ buying, we are hoping to conduct interviews with policy makers and find out whether they perceive of this being a problem.'

Although the one law above all others Sheelagh would like to see swept away is Eire's abortion legislation, it wasn't a conscious decision to go into this area of research, despite growing up in Ireland and studying for her first degree at Galway University.

'Looking back, there's a theme to the subjects I chose to study when we had choices – topics such as abortion and female genital mutilation – so perhaps there was subconscious connection to the fact I was in Ireland. And, certainly, my interest in travel and healthcare does extend from the fact that Irish women travel to have abortions in the UK.'

'I would love to see the Irish law on abortion changed as I think it's a huge problem. I'd also like to see the law on foetal abnormalities to be reviewed so that it's not a ground for abortion in the UK. I think we view disability very negatively, and I would like to see that change.'

Ros Dodd