

UK court to rule on landmark 'pregnancy crime' case

November 27 2014, by Alice Ritchie

A British court is to rule on whether a woman committed a "crime of violence" against her child by drinking heavily during pregnancy, in a case that has raised concerns about criminalising mothers.

A local authority is applying to the government's criminal compensation authority for damages on behalf of a seven-year-old girl in its care who has severe alcohol-related disabilities.

Its lawyers have told the Court of Appeal that her mother was "reckless" in her behaviour by drinking up to half a bottle of vodka and eight cans of strong lager a day while she was pregnant.

While they do not suggest the damage was deliberate, they say she discussed her drinking with professionals and "went on to take the risk".

The case, in which a ruling is expected next week, has sparked heated debate over the dangers of alcohol and the rights of women and fetuses in a country where abortion has been legal since 1967.

While there is no suggestion of charges against the mother, women's rights groups have warned that it risks opening the door to police action against other pregnant women, as is increasingly happening in the United States.

"The case is of profound social significance," said the British Pregnancy Advisory Service and Birthrights charities.

"If the court were to interpret the law as requested by the council, it would establish a legal precedent which could be used to prosecute women who drink while pregnant."

However, some commentators say it is a no-brainer.

"What about the rights of the little girl in this case whose life is forever blighted because of what her mother did?" wrote one furious writer in the Daily Mirror tabloid.

80 cases waiting in the wings

The Court of Appeal judgement will cap a five-year legal battle between the council and the Criminal Injuries Compensation Authority (CICA).

CICA considers applications for damages involving behaviour that could constitute a crime, in this case the alleged reckless administration of a noxious substance to the foetus.

In the latest stage of the proceedings in December, a judge ruled in CICA's favour and said the foetus was not a person until birth and could not be a victim of crime.

This ruling is now being appealed, with 80 similar claims for compensation waiting on the outcome.

Neil Sugarman, one of the plaintiff's lawyers, denies the case could move Britain closer to prosecuting pregnant women.

"We are not for a minute suggesting that will or ought to happen here," he told AFP.

But he acknowledged the whole issue was "fraught" with complications,

not least because drinking alcohol in itself is not a crime.

"Would it have been different if a woman had said she'd decided to take tonnes of salt and the salt had damaged the child?" he asked.

'Would I have stopped drinking?'

The girl, known only as CP, has a severe form of foetal alcohol spectrum disorder (FASD), an umbrella term which covers a range of disorders varying from reduced intellectual ability to heart and kidney problems.

But campaigners say it remains misunderstood and the British government's advice on drinking in pregnancy has been accused of being contradictory.

"No mother drinks intentionally to harm her child," said Susie Fleisher, who set up the FASD support group NOFAS-UK after her adopted daughter was diagnosed.

"A woman who has issues with alcohol should have support and not be thrown in prison."

Linda, a 49-year-old from London, was drinking eight or nine cans of lager a day when she was pregnant with her two eldest children, both in their 20s now.

She had only heard about FASD in passing and says she was offered no support to give up alcohol.

Her first daughter was fine but her second was born with the telltale distorted facial features and now has trouble socialising, controlling her temper and concentrating.

"Telling a mum is not enough. They need to be helped and supported," said Linda, who asked to remain anonymous.

She opposes criminalising pregnant mothers, but acknowledges that some custodial rehabilitation might have helped her.

"I was dependent on alcohol. I needed alcohol. I couldn't get through the day without it.

"Had I been warned of all the potential dangers and then sent home, would I have stopped? Probably not. Not without help."

© 2014 AFP

Citation: UK court to rule on landmark 'pregnancy crime' case (2014, November 27) retrieved 6 May 2024 from <https://medicalxpress.com/news/2014-11-uk-court-landmark-pregnancy-crime.html>

This document is subject to copyright. Apart from any fair dealing for the purpose of private study or research, no part may be reproduced without the written permission. The content is provided for information purposes only.