

No-fault divorce erodes the right to respect for private and family life

Currently it is possible to divorce on grounds of adultery, unreasonable behaviour, desertion, two years' separation with consent, and five years' separation without consent. This means that there is some room for protection for the injured party. If the bill were to become law, the innocent party in a marriage where one spouse committed adultery would no longer have the right to petition for divorce on grounds of adultery. Currently victims of domestic abuse can use the fact of unreasonable behaviour to petition for divorce.

Changing the law would send the message that breach of morality is of no public significance in ending a marriage. The illusion would be given in law and thus to society that private wishes are the sole reasons for divorce. This would privatise the significance of marriage, and thus reduce its value as an institution meant to protect the integrity of the relationship involved.

All this goes against the right to respect for private and family life as enshrined in Article 8 of the European Convention on Human Rights, which is incorporated into the Human Rights Act 1998.

No-fault divorce erodes the rights of spouses with long-term illnesses and other challenges

No-fault divorce makes it easier for one spouse to exit a marriage to another spouse who is vulnerable due to long-term health problems or disability or other challenges. Such people could be very vulnerable physically, mentally and financially if divorce against their will, and their well-being and quality of life would be at risk.

This goes against not only the right to respect for private and family life mentioned above, but in some instances could lead to discrimination on grounds of 'other status' under Article 14 of the European Convention on Human Rights.

It is worth considering the possible effect the Coronavirus social distancing rules have had on couples considering divorce. Whilst the press was quick to report a surge in the number of people wanting to divorce at the start of the lockdown, it is also possible that many others will later decide against divorce, having reassessed their values and priorities during the lockdown.

No-fault divorce is bad for children

Children get harmed by no-fault divorce. International evidence shows that when divorce becomes easier to obtain, more couples from low-conflict marriages divorce who would otherwise not have done. Children however are confused by low-conflict divorces because they do not understand the reasons for divorce, unlike high-conflict divorces which make sense to them. No-fault divorce results in couples who could have been reconciled being divorced instead, and their children being needlessly harmed, with long-term consequences.

Written evidence from Reverend Jess Stubenbord (DDS0020)

Article 18 of the United Nations Convention on the Rights of the Child makes it clear that countries that have signed and ratified the treaty should help parents to bring up their children by ensuring 'the development of institutions, facilities and services' to that end. No-fault divorce erodes the institution of marriage, treating it merely as a private arrangement, and thus if Parliament were to pass this bill, it would go against the terms of a major international treaty which it has signed and ratified.

Furthermore, Article 19 of the UN Convention on the Rights of the Child requires countries to

"take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child."

As no-fault divorce erodes the public significance of marriage as an institution, and removes any grounds of fault from divorce law, it introduces a mentality of neglecting all such moral considerations in the law of marriage and divorce. This is bound to have negative consequences in future.

Were civil servants free to object to no-fault divorce?

Many of you will have responded to the government's consultation on the plans for introducing no-fault divorce. The government overrode the objections of the majority of respondents who were opposed to no-fault divorce and did so by tabling this bill.

The **Impact Assessment** produced by the Ministry of Justice for the bill completely ignores all the international research evidence showing how harmful no-fault divorce is. This follows on from how the government consultation document likewise ignored this evidence. The question that arises here is whether civil servants were free to make the case against no-fault divorce or not. Civil servants are meant to be impartial and to be able to be free to advise government ministers on all policy matters. If they are not free to speak up, they cannot do their job properly and society suffers.

Freedom of speech is covered by Articles 9 and 10 of the European Convention on Human Rights (freedom of thought, conscience and religion is covered by Article 9, and freedom of expression is covered by Article 10).

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