



Submission to  
*Termination of  
Pregnancy Bill 2018*

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AUSTRALIAN CHRISTIAN LOBBY

## About Australian Christian Lobby

Australian Christian Lobby's vision is to see Christian principles and ethics influencing the way we are governed, do business, and relate to each other as a community. ACL seeks to see a compassionate, just and moral society through having the public contributions of the Christian faith reflected in the political life of the nation.

With more than 100,000 supporters, ACL facilitates professional engagement and dialogue between the Christian constituency and government, allowing the voice of Christians to be heard in the public square. ACL is neither party-partisan nor denominationally aligned. ACL representatives bring a Christian perspective to policy makers in Federal, State and Territory Parliaments.

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The Australian Christian Lobby welcomes the opportunity to participate in the public consultation on the Termination of Pregnancy Bill 2018 and notes this bill will have significant outcomes for women, children and the wider community.

ACL believes that human life begins at conception. This fundamental right is outlined in the Preamble to the UN's Declaration on the Rights of the Child which states:

*The child, by reason of his physical and mental immaturity, needs special safeguards and care including appropriate legal protection, before as well as after birth.*

ACL acknowledges that abortion is an emotive issue and for many women a deeply sensitive one. Women who find themselves unexpectedly pregnant may feel overwhelmed at the prospect of having a child and may be deeply conflicted and vulnerable. Many may feel abortion is the only option. These women should be treated with great respect and sensitivity and supported in ways that promote healthy outcomes for the mother and the child.

These women should be given support and true choice. A just and compassionate society will assist women who find themselves in difficulty because of pregnancy to be supported, socially and financially. A society that discards the lives of its youngest and most vulnerable members – its children – has lost a sense of compassion that values the love and protection of one another.

I trust that this submission is informative and helpful. Please feel free to contact me if I can be of further assistance in the consideration of this matter. I would appreciate the opportunity to address the committee to discuss our submission or any other aspect in respect to this review.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'W Francis', written in a cursive style.

**Wendy Francis**  
Queensland Director



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# Executive summary

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In considering the *Termination of Pregnancy Bill 2018* and the *Explanatory Memorandum*, there are several concerns and inconsistencies that will be addressed by this submission. These include:

- 1 The *Bill* is not in the best interests of women:
  - The problems which women face are not solved by abortion;
  - There is no requirement for pre-abortion counselling by an independent counsellor;
  - It legitimates domestic violence in the form of coercion to have an abortion by a partner, family or friends;
  - There are no provisions for post-abortion counselling;
- 2 The *Bill* is not in the best interest of children:
  - The *Bill* effectively allows abortion until birth, despite assertions from the government to the contrary;
  - The arbitrary selection of 22 weeks as the point of viability;
- 3 The *Bill* does not exclude abortion for a variety of social and cultural reasons including sex-selection.
- 4 The *Bill* does not provide for conscientious objection for health practitioners, it actually requires them to compromise their conscience under threat of censure and/or penalty;
- 5 Safe access zones as additional threats to freedom of thought, conscience and religion;
- 6 The *Bill* does not reflect public opinion expressed by the voting constituency of Queensland.

# 1 Not in the best interest of women

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## THE PROBLEMS WHICH WOMEN FACE ARE NOT SOLVED BY ABORTION

Abortion is often the last resort of desperate women. A 'woman's right to choose' is the loudest message of the pro-abortion lobby, but where abortion is the only choice offered to women, it is not a free choice.

Meshel Laurie, presenter on Channel 10's *The Project* told viewers recently that she wished:

*"there was never another abortion ever in the entire world... what I think gets lost in the abortion debate every time, is that nobody wants there to be abortion," Laurie said.*

*"I hate the fact that there is abortion. It breaks my heart."<sup>1</sup>*

Women facing an unplanned pregnancy may feel overwhelmed at the prospect of having a child and may feel conflicted and vulnerable. There are many reasons for this, such as financial insecurity, lack of support from a partner, unstable domestic situation; family violence and more. In the absence of appropriate support, many may feel abortion is the only option. These women should be treated with respect and sensitivity.

However, rather than allowing abortion, a just and compassionate society will assist women who find themselves in difficulty because of pregnancy to be supported, socially and financially. Choosing abortion in the absence of other support is not a free choice. There is a strong likelihood that the difficult circumstances will not be eradicated by an abortion.

Solutions for unplanned pregnancies must be woman-centred and consider the holistic welfare of the woman. Abortions does not solve a woman's problems, it ignores them and provides a panacea for society to avoid dealing with them.

It is of particular concern that 26% of people surveyed reported knowing at least one woman who had been coerced into having an abortion by another person.<sup>2</sup> If this other person was a partner or family member, this is clearly domestic violence and this should never be tolerated. We know coercion to abort is a significant problem in Australia and yet this Bill does not address this issue in any way. In fact, liberalising abortion laws will make this form of domestic violence even more difficult to identify.

1 <https://www.news.com.au/entertainment/tv/current-affairs/meshel-laurie-i-hate-the-fact-that-there-is-abortion/news-story/4fcf5b7b91f1dcd32ce4cafc2570ff5> Story aired on 25 May 2018. Accessed 29 August 2018

2 YouGov Galaxy Poll, Abortion Study, August 9. 2018 Response to A5: Know anyone who had an abortion due to pressure from another person.

## PRE-ABORTION COUNSELLING BY AN INDEPENDENT COUNSELLOR

Because women facing unplanned pregnancies may be vulnerable and conflicted, it is important to provide assistance in the decision-making process through access to an independent counsellor.

A counsellor can assist with identifying values and with decision-making. A counsellor may also assist in identifying coercion by a partner or family members.

There may also be coercion from partners and extended family to abort a female child due to cultural reasons. It has been identified that amongst certain cultural groups in Victoria there is a greater number of births of male than female babies. This appears to have increased since the liberalisation of abortion laws in that State.

Assisting a woman identify her values may also provide a safeguard against post-abortion trauma. Post-abortion trauma can include:

- 3.5 times greater incidence of clinical depression;<sup>3</sup> and
- High rates of PTSD (up to one fifth) at three months post abortion.<sup>4</sup>

Counselling would assist the woman in her decision making. Any counselling process should also allow a period of a minimum of 72 hours between counselling and the termination of a pregnancy.

3 Pedersen et. al., Scandinavian Journal of Public Health, Vol.36, No.4, 424-428 (2008) DOI:10.1177/1403494807088449 and Cogle et.al., 'Depression associated with abortion and childbirth: A long-term analysis of the National Longitudinal Study of Youth cohort' Medical Science Monitor 2003; 9(4):CR105-112 as quoted in <https://www.abortiongrief.asn.au/documents/Recent%20Research.pdf?1> Accessed 30 August 2018

4 Sharain Suliman et al, 'Comparison of pain, cortisol levels and psychological distress in women undergoing surgical termination of pregnancy under local anesthesia vs. intravenous sedation'. BMC Psychiatry 2007, 7:24.



## 2 Not in the best interest of children

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This *Termination of Pregnancy Bill 2018* effectively allows abortion until birth.

### 0–22 WEEKS

It is a case of 'no questions asked' until 22 weeks. Presumably abortion is available without any medical referral until 22 weeks as the unborn child is considered viable after that time. Recent developments have enabled the survival of a child born at 22 weeks and 2 days.<sup>5</sup> Under the provisions of the proposed Bill, that child could have been aborted. Viability is not a valid measure as it continues to be pushed back further with medical advancements.

### 22 WEEKS – BIRTH

After 22 weeks a woman is required to consult with two doctors to approve the abortion. No reasons for abortion need to be provided by the medical practitioners concerned. The second medical practitioner is not even required to examine the woman. There are no guidelines about the conditions that may require an abortion after 22 weeks. No mention of danger to the physical or mental health of the mother or of the unborn child. An abortion may be requested for medical, or social reasons.

### NOT ACCEPTABLE TO QUEENSLANDERS

Abortion after 22 weeks is not supported by the majority of the population. Only 6% of the population of Queensland believe abortion should be permissible after 23 weeks.<sup>6</sup>

5 <https://www.springfieldnewssun.com/news/national/baby-graduates-from-nicu-after-being-born-weeks/AvzR77kEYDK3MOaCulEcgK/> Accessed 29 August, 2018.

6 YouGov Galaxy Poll, Abortion Study, August 9. 2018. In response to A^: Stage of pregnancy at which to allow abortion.

# 3 Does not exclude abortion for sex-selection

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Sex-selection abortion is opposed by 82% of the Queenslanders. Recent studies from the State of Victoria show that certain ethnic populations in that state are recording the birth of a larger ratio of boy babies to girls.<sup>7</sup> Research from Latrobe University shows that this figure can be as high as 125:100 in favour of the birth of boy babies:

*When comparing registered births of all first-generation migrants to registered births of Australian-born mothers, we found the number of male births among Indian and Chinese-born mothers was highest in the last five-year period with 122 and 125 boys born to every 100 girls, respectively if the mother had two or more previous births."*

*"In comparison, Australian-born mothers with the same number of previous births had 105 boys for every 100 girls during the same period."<sup>8</sup>*

In view of this very recent research, it is negligent for this Bill not to implement safeguards to prevent this happening in Queensland. This undermines any rhetoric claiming to promote abortion as motivated by concern for women or for girl babies.

<sup>7</sup> <https://www.latrobe.edu.au/news/articles/2018/release/gender-bias-leads-to-more-male-births> Accessed 30 August 2018

<sup>8</sup> Ibid.

# 4 Required health practitioners to compromise their conscience

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A significant concern with this Bill is the disregard it has for the fundamental right of freedom of conscience. The Bill claims to offer health practitioners the option to exercise 'conscientious objection' but then requires them to refer the patient to someone that does not share that objection. This is not conscientious objection. It clearly required the health practitioner to compromise their conscience.

This issue was addressed in another jurisdiction in relation to referral to another practitioner where the first health practitioner was ethically opposed to euthanasia. In a hearing on Euthanasia in the ACT Legislative Assembly, a question was asked of the Ms Gabrielle McKinnon, Human Rights Law and Policy, ACT Human Rights Commission. Ms McKinnon was asked:

*"Do you think that any requirement to refer, from someone who refuses to participate, is too onerous or that there is some middle ground referral that under the Human Rights Act may not be considered too onerous?"*

Her reply was:

*"If I could take that a bit further, the idea is that certainly it would be a limitation on a doctor's rights to freedom of religion, and their ability to conscientiously object, to require them to participate in the carrying out of voluntary assisted dying. It is certainly arguable that requiring them to directly refer to another doctor, knowing that the outcome of that would be that the person would have access to voluntary assisted dying, is likely to be also seen as a limitation."<sup>9</sup>*

While the discussion above, was in relation to voluntary assisted dying, it applies equally to abortion.

This submission argues that it is also a denial of a medical practitioner's right to freedom of thought, conscience and religion under Article 18 of the International Covenant on Civil and Political Rights (ICCPR) which states:

*Everyone shall have the right to freedom of thought, conscience and religion.*

Doctors, nurses, and counsellors must be free to exercise their conscience. If they believe abortion is not good for the woman, and is destroying a defenceless human life, they must not be forced to comply with abortion by referring the woman to someone else.

For many doctors and nurses, abortion is a matter of deeply held conviction. For some, they will be unable to comply with the law at all, even with the risk of heavy penalties, therefore many will be forced out of their chosen profession rather than conform to the law.

9 Select Committee on End of Life Choices in the ACT; transcript of evidence Friday, 18 May 2018; <http://www.hansard.act.gov.au/hansard/2017/comms/elc02a.pdf>

## INSTITUTIONS HAVE FREEDOM OF RELIGION

Freedom of religion and freedom of conscience are protected by the International Covenant on Civil and Political Rights (ICCPR). This right is extended to religious societies and institutions. These are capable of possessing and exercising the right to freedom of religious beliefs and principles as recognised by Australian and international Law.

The *Termination of Pregnancy Bill 2018* fails to provide religious freedom to religious organisations. It does not provide a right of conscientious objection to hospitals and health services, only to registered health providers. The Explanatory Notes states:

*“The provision does not extend to hospitals, institutions or services, as the right to freedom of thought, conscience and religion is a personal and individual right.”*

Religious institutions do have the right to conscientious objection as established by law. We refer to the following extracts from the judgment of Redlich J in *CYC v Cobaw* [2014] VSCA 75:

[476] Although a corporation is a distinct legal entity with legal rights, obligations, powers and privileges different from those of the natural persons who created it, own it, or whom it employs, there is ample legal basis to impute to it the religious beliefs of its directors and others who the law may regard as its mind or will. The Tribunal observed that subjective intentions may be attributed to corporations, including the necessary mental element for a crime.<sup>[1]</sup> The corporation may make and express moral, ethical, environmental or other judgments in the discourse of the public square and participate in the defining of social norms.

[480] Corporations have a long history of association with religious activity. Blackstone, in his Commentaries on the Law of England, lists ‘advancement of religion’ first in the list of purposes that corporations might pursue (See W Blackstone, Commentaries on the Laws of England, Chapter 18, ‘Of Corporations’). Religious institutions have long been organised as corporations at common law and under the King’s charter (Ibid 455-73; see also *Citizens United v FEC* 558 US 310, 388 (2010)). It has been repeatedly held by European courts, applying art 9 of the European Convention on Human Rights, that entities and associations including corporations, unincorporated associations, institutions and societies are capable of possessing and exercising the right to freedom of religious beliefs and principles (See, for example, *X and Church of Scientology v Sweden* (Application No. 7805/77) (1979) 16 DR 68, 70; *Omkarananda and the Divine Light Zentrum v Switzerland* (Application No. 8118/77) (1981) 25 DR 105, 117; *Chappell v United Kingdom* (Application No. 12587/86) (1987) 53 DR 241; *Kustannus v Finland* (Application No. 20471/92) (1996) 85-A DR 29).

This is a serious oversight in the proposed legislation.

# 5 Safe access zones as additional threats to freedom of thought, conscience and religion

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It is understandable that such protection is sought. At such a difficult time, a woman should not have to face abuse from those who are condemning her decision. But this situation is already covered in Queensland law. The Queensland Law Reform Commission Report stated that in Queensland, harassing, intimidating, or obstructing behaviour that affects women or service providers who are entering or leaving termination services premises may be addressed by existing laws. In particular, a person commits a public nuisance offence if they behave in a disorderly, offensive, threatening or violent way that interferes, or is likely to interfere, with the peaceful passage through or enjoyment of a public place by a member of the public. Police also have the power to give a move on direction to a person in a public place, including if the police officer reasonably suspects the person's behaviour has been disorderly, indecent, offensive, or threatening to someone entering, at or leaving the place; or if the person's behaviour or presence is or has been:

- causing anxiety to a person entering, at or leaving the place, reasonably arising in all the circumstances; or
- interfering with trade or business at the place by unnecessarily obstructing, hindering or impeding someone entering, at or leaving the place.

The question must be asked why this extra legislation is required, particularly as this very law is being challenged currently in the High Court of Australia.

The Bill itself recognises that the establishment of safe access zones is in conflict with the *Peaceful Assembly Act 1992* and makes provision to override it. Any limitations of freedoms is concerning and this submission wishes to note that not all protests outside an abortion clinic are a threat to the women concerned. Praying silently outside an abortion clinic is not confrontational.

Freedom of conscience and speech, as well as freedom of assembly, is threatened by the establishment of 'safe access zones'.

# 6 Contrary to the views of public opinion in Queensland

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The majority of Queenslanders do not support the provisions of the *Termination of Pregnancy Bill 2018*. They certainly do not support abortion to be available up to birth. A recent survey showed that 50% of Queenslanders believe that abortion is the taking of a human life and 62% believe that a baby at 23 weeks of gestation is a human person with human rights.<sup>1</sup> The *Bill* proposes a much more radical approach to abortions allowing abortion until birth even for social reasons.

<sup>1</sup> YouGov Galaxy Poll, Abortion Study, August 9, 2018

