

Parliamentary Committee
5/9/18

Subject: Submission on the Termination of Pregnancy Bill 2018

My family members and I strongly oppose this Bill and recommend it not be passed, and there should be no change to the current law as there are no ethical justified reasons or substantial evidence to do so. The Bill lacks substantial evidence to justify changing the laws, is inequitable and discriminatory and takes rights of human life away from innocent children and will cause further harm to more women, fathers, brothers, sisters, families and society.

Chapter 1 of the Law Reform Commission Report (The Report)

In sections 1.1 to 1.6 in Chapter 1 of the Report it stated in part the first Bill in 2016 was not passed, in 2017 with the second Bill the Committee did not reach agreement on whether to recommend that the Bill be passed and both Bills were withdrawn by the proposed Mr Pyne and the Government referred the current laws in relation to termination to the Queensland Law Reform Commission. This is evidence that members of parliament considered the importance of current laws on abortion, further they needed further legal advice before considering changing the current laws. The main purpose of law is to provide social cohesion by avoiding conflicts that may occur in a society, for if there is conflict there will be disorder, confusion and chaos. This Bill has in the past, is now and will cause conflicts, disorder, confusion and harmful effects to people in Queensland if passed.

In 1.15 to 1.18 of Chapter 1 of the Report it stated the Commission received and considered 1200 submissions and two Parliamentary Committee reports. The submissions raised a large number of issues and reflected a wide range of views.

According to the YouGov Galaxy poll in 2018:

73% of Queenslanders oppose late term abortions past 23 weeks;
63% of Queenslanders agree unborn at 23 weeks is a person with rights;
60% of Queenslanders oppose mid-term abortions past 13 weeks;
85% of Queenslanders oppose sex selection abortion;
19% of Queenslanders believe the current law is not restrictive enough;
35% of Queenslanders believe the current law is about right; and
26% of Queenslanders believe the current law is too restrictive.

There are also the serious consequences to women, fathers, families, friends and society after any abortion. Consider the consequences when killing an innocent unborn child at 22 weeks or up the day before birth.

In 1.21 of Chapter 1 of the Report it states in part, sections 224, 225 and 226 of the Criminal Code makes it a crime to unlawfully terminate a women's pregnancy except in limited circumstances. Women and health practitioners who fail to meet the criteria for a lawful termination face the threat of criminal prosecution and conviction. A lack of certainty under the current provisions as to when a termination is lawful may result in fear and stigma for women and reluctance by some health practitioners to provide termination services.

First, the current Queensland laws (sections 224, 225, 226, 282, 288, 292, 294, 313 of the Criminal Code including case law) are there to protect both the woman and the child. Both lives matter.

Second, in the Executive Summary of the Report it stated the Queensland courts, in interpreting these sections, have adopted a ruling based on decisions in other jurisdictions that a termination by a medical practitioner, with the consent of the woman, is 'lawful' if it is necessary to preserve the woman from a serious danger to her life or her physical or mental health (not being merely the normal dangers of pregnancy and childbirth). It further states between 10,000 and 14,000 terminations are performed in Queensland each year, with most performed in the first trimester of pregnancy. Later terminations are comparatively rare. From these facts terminations are occurring lawfully in Queensland. I note no evidence is provided to show the number of women who suffer fear and stigma and/or the number of health practitioners who were reluctant or refused to provide termination services. Further there is no evidence provided on any criminal prosecutions or convictions against women or medical practitioners for unlawful terminations. There is a lack of evidence to substantiate the Commissions claims. In fact there is clear evidence in the Report the current laws are right and should remain unchanged.

In section 1.23 of Chapter 1 the Report states: Sections 224, 225 and 226 have remained virtually unchanged since their enactment more than 100 years ago. Following in section 1.24 it states: since that time, newer and safer medical procedures for inducing terminations have been developed, including early medical termination. Due to their restrictive nature, sections 224, 225 and 226 do not align with international human rights obligations which recognize and support women's rights to reproductive health, including access to safe and legal termination services. Whilst some members of the community remain opposed to termination, over time there has been a general shift in community attitudes in support of women's rights to termination.

First, the Commission recognises that medical practitioners in Queensland are currently using newer and safer medical procedures for inducing terminations in 2018 under the current laws, not under reformed laws. Further section 282 'Surgical operations and medical treatment' of the Queensland Criminal Code provides a defence for surgical operations and medical treatment of a person or an unborn child for the patients benefit or of a person or an unborn child to preserve the mother's life: if performing the operation or providing the medical treatment is reasonable, having regard to the patient's state at the time and to all the circumstances of the case.

Second, the comments neglect to provide an equitable view of the rights to life of the innocent unborn child.

Third, according to the YouGov Galaxy poll in 2018:

73% of Queenslanders oppose late term abortions past 23 weeks;

63% of Queenslanders agree unborn at 23 weeks is a person with rights;

60% of Queenslanders oppose mid-term abortions past 13 weeks;

85% of Queenslanders oppose sex selection abortion;

In section 1.25 of Chapter 1 the Report states: Other Australian jurisdictions have reformed their laws to improve access to termination services, including medical termination. In the ACT, the Northern Territory, Tasmania and Victoria, terminations performed by registered medical practitioners are regulated as a form of health care.

First where is the evidence to substantiate the claim that reforming Queensland laws will improve access to termination services and medical terminations?

In section 2.88 of Chapter 2 of the report it states: Australia's termination rate has been steadily declining. Available estimated national figures show a fall in the termination rate from 21.9 per 1000 woman aged 15 to 44 years in 1995 to 19.7 in 2003.

In section 2.93 of Chapter 2 of the report it states: as noted, few jurisdictions in Australia publish official data, making it difficult to identify any changes in the incidence of terminations following law reform.

In section 2.101 of Chapter 2 of the report it states, the total number of terminations identified from the Queensland Hospital Admitted Patient Data Collection has declined overall since 2011.

In section 2.111 of Chapter 2 of the Report it states in part, almost all (approximately 99%) of the terminations in public hospitals and licensed private health facilities are performed before 20 weeks gestation.

This is evidence that the reformed laws in ACT, Northern Territory, Tasmania and Victoria have not improved access to termination services and medical termination. Terminations have declined following law reforms in other States and all late terminations (22 weeks or up to birth) are not necessary or justified. This is evidence the current law reform it not justified.

This evidence shows the current laws are right (and should remain unchanged) and the proposed changes are not justified. Further, if Queensland termination rates are declining under current laws, passing this Bill has the potential to increase the number of killing of innocent unborn children, increase the financial costs to the tax payers and more women, fathers and families will suffer serious prolonged psychological trauma. All lives matter.

In section 1.29 Chapter 1 of the Report it states:

Generally, termination should be treated as a health issue rather than as a criminal matter.

Women's autonomy and health (including access to safe medical procedures) should be promoted, recognizing that at the earlier stages of pregnancy, a woman's autonomy has a greatest weight and termination is lower risk and safe for the woman; at the later stages of pregnancy, the interest of the fetus have increasing weight and termination involves higher risk for the woman and complex issues.

The law should achieve reasonable consistency with other Australian jurisdictions that have modernised their laws relating to termination.

First, killing an innocent unborn child for any reason should never be treated as a health issue especially when both mother and child are healthy. Any killing of innocent unborn children should only be treated as a health issue if it is necessary to preserve the woman from a serious danger to her life or her physical or mental health, not being merely the normal dangers of pregnancy and childbirth. Repealing the current law removes the protection and rights of all innocent unborn children. There is no death penalty in any State of Australia for convicted murders. Why should there be a death penalty for any reason for innocent unborn children? If you oppose the death penalty for convicted murders of adults and/or children, how can you justify supporting a death penalty for innocent unborn children.

Second, women's autonomy and health (including access to safe medical procedures) are being adequately managed in Queensland public and private hospitals in 2018 and there is a decline in terminations since 2011 as stated in section 2.101 of Chapter 2 of the report.

Third, if the Commission recognize at the later stages of pregnancy, the interest of the fetus have increasing weight and termination involves higher risk for the woman including complex issues why would the Commission propose a law to kill an innocent unborn child at 22 weeks or up to birth for any reason including removing classification of offences and penalties to deter negligent or careless acts or omissions. In the Criminal Code, Section 224 'Attempts to procure abortion' is a crime with a penalty of imprisonment for 14 years, Section 313 'killing unborn child' is a crime with a penalty of imprisonment for life. The classification of these offences and penalties reflect the principle that the fetus should be accorded greater recognition and protection as it advances to birth. These laws are there to protect both the lives of the woman and innocent unborn child.

Forth, the comments neglect to provide a view of the rights to life of the innocent unborn child.

Fifth, no information or evidence is provided to justify the claims that by modernising our laws to other States will improve the current situation in Queensland. Terminations are declining in Queensland and medical practitioners are using newer and safer medical procedures for inducing terminations, including early medical termination. Further terminations in Western Australia, Victoria and ACT (where they have reformed their laws on termination) have declined or have had little perceived change (sections 2.94 to 2.96 Chapter 2 of the Report). Changing our laws to allow terminations for any reason will increase the risks not decrease them. In section 2.106 Chapter 2 of the Report it states: Queensland public hospitals provide termination services in a limited range of circumstances. Most terminations performed in public hospitals are carried out on the basis of fetal abnormality or maternal illness or complications.

Chapter 2 of the Report

In section 2.133 to 2.138 Chapter 2 of the Report it provides information from the 2008 Victorian Law Reform Commission report, information/results/trends from the Queensland 2016 Parliamentary Committee report and some information/results/trends from the Australian

Election Study 1979 to 2016 concluding community support for terminations has generally increased over the years.

At section 2.134 the 2008 Victorian Law Reform Commission reported in its review of termination laws that the available evidence provides general support for the following second conclusion; A subset of those supporters regard the right as capable of limitation, with restrictions of choice on factors such as gestational age and women's reasons for seeking the abortion. However, there is insufficient evidence to estimate the size of that subset;

At section 2.138 it states: However, it is also observed that support for a woman's ability to obtain termination can depend on the circumstances in which termination is sought.

At section 2.142 it states in part that other states (ACT, Victoria, Tasmania, Northern Territory and Western Australia) have amended their laws to decriminalize terminations in particular circumstances such as various combinations of legal grounds, gestational limits and procedural requirements to define the circumstances in which termination performed by a qualified person is lawful.

These are the key issues and should not be ignored. The current Bill proposes the killing of innocent unborn children at 22 weeks or up to birth for any reason at any time including gender selection killing.

I note the Commission neglects to report on the illegal or non-compliance or wrongful terminations and/or the consequences and how have they been addressed and resolved. Reform of any laws has consequences and these should not be ignored and all issues must be considered.

In the recent 2018 YouGov Galaxy poll:

73% of Queenslanders oppose late term abortions past 23 weeks;

63% of Queenslanders agree unborn at 23 weeks is a person with rights;

60% of Queenslanders oppose mid-term abortions past 13 weeks;

85% of Queenslanders oppose sex selection abortion;

Chapter 3 of the Report

In Chapter 3 the Commission reports about the role of registered health practitioners, gestational limits, grounds and consultation, approved medical facilities for terminations, consequences of non-compliance, exempting the woman from criminal responsibility, terminations performed by an unqualified person and their recommendations.

The prime focus by the Commission (referring to Tasmanian and Victorian models only) is on the woman's rights to termination up to birth for any reason at any time including gender selection termination with limited accountability, no deterrent with limited safeguards. I note no consultations or surveys and/or results show the views of Queenslanders about these models and combined approaches to demonstrate a balanced point of view. When do the unborn Child's rights outweigh the woman's rights?

In section 3.54 Chapter 3 it states: In the Consultation Paper, the Commission sought submissions on whether any gestational limit should be imposed, whether any specific grounds should be imposed, whether different grounds should apply at different stages of pregnancy, and whether there should be a requirement for a medical practitioner to consult with others or refer to a committee before performing a termination. From sections 3.55 to 3.171 submissions and responses were provided highlighting the various views about lawful terminations.

At section 3.172 it states: The Commission recommends that the draft legislation adopt a combined approach similar to the Victorian model, but with some modifications, namely:

- An on request gestational limit of 22 weeks;
- A single broad ground, applying after 22 weeks;
- A requirement for the medical practitioner to consult with another medical practitioner, after 22 weeks; and
- An exception to the requirements, after 22 weeks, for emergencies.

After considering all the submissions and responses the Commission's recommendations have ignored the violation of innocent unborn child rights, including the right to life, to grow up and have the same opportunities as most Queenslanders.

There is also focus on decriminalization of offences with limited accountability and consequences for unsafe or non-compliance of terminations. Section 3.236 Chapter 3 states: The Commission does not recommend a specific penalty for a medical practitioner's failure to comply with the requirements for a termination under the draft legislation. Section 3.237 states: The Commission considers that, in this respect, medical and other health practitioners should be subject to the same professional and legal consequences as those that apply in relation to other medical procedures.

What deterrent and safeguards are in place to ensure proper lawful terminations? The current laws are in place and ensure the means justifies the ends, not the ends justifying the means.

In section 3.48 Chapter 3 it states:

Arguments against an on request approach include that:

- There is some community concern that an on request approach does not regulate, and would allow, later terminations up to birth, giving inadequate recognition to the interests of the fetus which are entitled to greater recognition and protection as development towards birth progresses.
- Some concern has also been expressed about laws that allow termination 'on demand' where the reason for termination is considered inadequate (for example, termination used as a form of contraception, for convenience or for gender selection).

These concerns by members of the community are real, cannot be ignored and should hold greater weight to preserve and protect life over taking of life for any reason at any time. There should be no change to the current law.

In sections 3.242 to 2.261 the Commission considers section 225 'Procure her own miscarriage' of the Criminal Code be repealed exempting the woman from criminal responsibility and provided submissions for and against on whether a woman should be criminally responsible for the termination of her pregnancy.

Section 3.264 states: Accordingly, the draft legislation should provide that, despite any other Act, a woman who consents to, assists in, or performs a termination on herself does not commit an offence.

Section 3.265 states: The effect of this provision is that a woman could not be convicted of an offence under Queensland law, whether as a principal offender or as a party,

The Commissions conclusions focused solely again on the woman's human rights and services and ignored the submissions such as the dangers of removal of a woman's criminal responsibility and deterrent penalty for terminating her pregnancy even without the involvement and supervision of a medical practitioner and the rights of the unborn child should be protected at law.

Legalising terminations removes any deterrent to protect the unborn child including the woman (who self terminates) and sends the message to the community that killing an innocent unborn child at any time for any reason is acceptable. The current law protects women who are being put under pressure to have a termination and deters others from unlawfully killing innocent unborn children.

The Commission then makes recommendations for lawful termination to allow a medical practitioner to kill an innocent unborn child at 22 weeks for any reason and/or allow a medical practitioner to kill an innocent unborn child up to birth for any reason provided the medical practitioner has consulted with another medical practitioner who also considers that, in all the circumstances, the termination should be performed.

The Commission further recommends a woman who consents to, assists in or performs a termination on herself does not commit an offence.

First, this Bill will allow gender selection killing of an innocent unborn child. Isn't this gender discrimination and an offence against the Queensland Anti-Discrimination Act 1991? According to YouGov Galaxy poll in 2018, only 6% of Queensland's support gender selection abortion, 85% opposes such unethical and discriminatory practice.

Second, don't we have marriage equality in Australia? Why is the Commission ignoring human life equality? Why does the Commission recommend removing all legal rights from unborn children in Queensland? Where are the Commissions balanced, fair and justified reasons? Approximately the same percentage of people who voted 'Yes' to same-sex 'marriage', are also against abortion after 13 weeks → over 60% in both cases.

The recommendations holds little or no weight as it neglects to consider the rights to life of the innocent child and the rights of the father and provides no deterrent and no safeguards to

prevent the woman from self termination. As a recently retired Senior Sergeant of the Queensland Police Service I have had to take into custody (under the provisions of the Mental Health Act) a woman attempting to self terminate her 9 month unborn child and transport her to a Mental Health Hospital as she was a danger to herself and the unborn child.

As a father of two children I can clearly remember the day of leaving work urgently at the call for help from my wife who was in the stages of a treat to miscarriage. Fortunately I was able to transport the wife to hospital in sufficient time to save the life of our unborn child, 'Renee' who is now a 28 year old healthy woman who we love and are so glad she is alive. Both lives matter, fathers matter, families matter.

Repealing current abortion laws and passing this Bill as law will result in many more unnecessary innocent unborn children being killed and many more women, fathers, brothers, sisters, grandparents, relatives and friends being wounded. All lives matter.

Chapter 4 of the Report

Sections 4.1 to 4.176 Chapter 4 considers health practitioners conscientious objection to termination covering rights and duties of health practitioners, legislating for conscientious objection to terminate, consultation and submissions, a conclusion and recommendations.

Don't we live in a democratic State? This Bill will force an objecting medical practitioner to inform the woman that they have a conscientious objection to termination to refer the woman to another registered health practitioner who the practitioner knows does not have a conscientious objection to termination? Further non compliance of the referral will result in disciplinary action being taken against the medical practitioner.

Conscientious objection is adequately addressed in existing guidelines, standards and codes of conduct for practitioners. Both medical practitioners and women should have autonomy and freedom to make choices with regard to termination of pregnancy, and that the freedoms of each should not impact on the other. A woman is free to may her inquiries with medical practitioners who will perform terminations. Why should an objecting medical practitioner be required by law under threat of disciplinary action be required to refer the woman to another medical practitioner who does not have not have a conscientious objection to termination.

The proposed law is totalitarian: exercising control over the freedom, will, or thought of others. This is a violation of the right to conscientious objection and the health practitioner's obligation to recommend what is the woman's best interests.

The legislative provision might also increase the number of killing or innocent unborn children as there is a lack of precautionary safeguards in this Bill for women to receive independent counseling and professional advice before they seek abortion. Many vulnerable women lack this professional support and are unethically coerced by many factors. According to YouGov Galaxy poll in 2018, 90% of Queenslanders agree that women seeking abortion should have free independent counseling before making a decision.

This Bill is disgraceful and ignores the human rights to life for an innocent unborn child and the severe effects on women. 1 in 5 women suffer serious prolonged psychological trauma after abortion, such as depression and anxiety (Real Choices Australia [REDACTED]) Further post abortive women are almost 6 times more likely to commit suicide than women who give birth (British Medical Journal, 1997 – [REDACTED])

Chapter 5 of the Report

Section 5.1 to considers safe access zones, the general laws addressing harassing intimidating, obstructing behavior, safe access zone legislation, freedom of political communication and peaceful assembly, consultations and submissions, conclusion and recommendations.

There is a range of existing laws in Queensland Summary Offences Act 2005, Criminal Code 1899, Police Powers and Responsibility Act 2000, Domestic and Family Violence Protection Act 2012, which adequately address harassing, intimidating behavior of persons in a public place and protecting them from entering or leaving termination premises as indicated in section 5.1 to 15.15 of the Report. There are further laws such as the Weapons Act 1990, the Police Service Administration Act 1990 and the Transport Operations (Road use management) Road Rules Regulation 2009 which provide police officer powers to manage law and order in public places.

These laws allow Freedom of expression and peaceful protests (which is protected under international human rights law) by persons in public places. As the current Queensland laws are adequate introducing safe access zone provisions are not considered reasonable and justified under the circumstances. As a retired Police Officer after 37 years of service to the community of Queensland I have experienced many challenging situations regarding people committing various offences from disorderly and insulting behavior, willful & unlawful damage to property, unlawful assault, illegally entering and remaining on premises, domestic violent incidents in private premises and in public places and challenging protests in public places. The arrests and charges I preferred against the offenders were all found guilty in Court. At all times other police officers and I have effectively managed the incidents under current Queensland laws. I talk from experience, not from research.

There is no need to create a separate offence when current laws adequate deal with the unlawful behavior of people in public places and on premises. Creating an offence with penalties of \$2,611 or one year in jail against persons peacefully expressing their views in any public exclusion zones should not be enacted. If enacted where is the equality of the law for people? Specific laws should not be introduced for one sector of the community to prevent harassment, intimidation or obstruction. The same laws should be available to all persons not just surrounding the circumstances of abortion. Further this new law does not offer any penalties for clinics that do not follow proper informed consent recommendations.

It is dangerous and wrong to repeal the current laws on abortion. The current laws are there for a purpose, to protect and preserve life of the innocent unborn child and prevent harm to the woman. Both lives matter. Does your life matter? Does your wife's or partner's life matter? Do your children's lives matter?

Aptly put by G.K.Chesterson, 'Don't ever take a fence down until you know the reason why it was put up'.

Repealing current abortion laws and passing this Bill as law will result in many more unnecessary innocent unborn children being killed and many more women, fathers, grandparents, relatives and friends being wounded. All lives matter. According to the Sexton Marking Group 87% of Australian already think it is too high.

I am a recently retired Senior Sergeant from the QPS. For over 37 years I fulfilled the Oath of Office to protect life and property in servicing the people of Queensland. It is very difficult for me to comprehend why the Labor Party wants to propose this wicked Bill to allow the killing of innocent unborn children. killing an unborn baby is the same as killing a born baby. A baby inside the womb has the same legal status as a baby outside the womb.

In 2018 only 5% of Queenslanders support this Bill according to the YouGov Galaxy Research poll. Aren't the lives of an innocent unborn children and the welfare of the mothers important to you?

I respectfully request you consider my comments carefully before make your decision and recommendations.



Barry Binnie

