

Dear Members of the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee

I am writing to oppose the *Termination of Pregnancy Bill* put forward by Attorney-General D'Ath.

There are many things wrong with the bill such as:

- The Bill does not require women considering termination to be fully informed about the abortion procedures, about the development of their child, funding/support available to raise their child, or alternative options to termination.
- The Bill provides no safeguards from abortion coercion.
- The Bill prohibits people offering women legitimate help and hope near the entry of an abortion facility.

But the areas of the Bill my submission focusses on are:

1. The Bill fails to recognise that a child dies in every successful abortion.
2. The Bill fails to clearly establish lawful and unlawful abortions – rather all abortions are legal.
3. The Bill essentially legalise euthanasia of very young children.

1. The Bill fails to recognise that a child dies in every successful abortion.

The reason that abortion restrictions existed in the Queensland Criminal Code at all is because it would have been recognised (even back in 1899) that a human child dies in an abortion. If a human life was not being killed, then having an abortion would be no different to having a mole removed, and thus no criminal laws would be required as it truly would be a simple medical procedure up to the woman – her mole, her body, her choice.

But because abortion does result in the death of a separate human being, there needs to be very good reason for this to occur. The new Termination of Pregnancy Bill fails to recognise this. Rather the original sections of the Criminal Code that the Bill will repeal are the only parts that afforded any protection to these vulnerable human lives.

The key issue with policy makers in regards to abortion law is they tend to ignore that a child dies in every successful abortion.

- Perhaps they don't believe the unborn child is a real child yet (especially when in embryonic stage).
- Perhaps they don't consider them a real person with rights.

With that view of an embryo/fetus it is easy to see abortion as a simple medical procedure like any other (like having a mole removed or a tooth pulled) that should only be treated as health care and should be removed from the Criminal Code.

But for those of us that see the reality that even an embryo is a human child, then abortion is not a simple medical procedure but a tragic one that will cause a child to die. Thus we believe abortion needs to be regulated so it is only used if necessary to save lives.

Is an embryo or fetus a human child that should be protected by human rights laws?

Yes. I believe so and this is why:

An embryo/fetus are part of the "human family" which the *Universal Declaration of Human Rights* applies too. The first line of the UDHR preamble reads:

Whereas recognition of the inherent dignity and of the equal and inalienable **rights of all members of the human family** is the foundation of freedom, justice and peace in the world,

(**Emphasis** is mine)

An embryo/fetus has a human mother and a human father and is by biological definition a human child – they are the offspring of these two human parents, and while safe in the womb they are very much alive and growing, so are a "human being". As members of the human family, under the UDHR they are entitled to rights such as the right to be treated as a person before the law (Article 6) and thus the right to life (Article 3).

So any laws regarding abortion needs a balance between the rights/interests of the mother and the rights/interests of the child remembering that it is the child who will lose their life in the worst case.

I think Queensland's current laws already strike a balance by generally restricting abortion to health reasons only. I do think the laws need more clarity but I do not think that they should be weakened as they are by the proposed changes in the *Termination of Pregnancy Bill 2018*.

2. The Bill fails to clearly establish lawful and unlawful abortions – rather all abortions are legal.

The new law was meant to "clearly establish the circumstances in which a termination is lawfully permitted." However it does not establish these circumstance, rather it decriminalises **all** abortions and presents a façade of restrictions which put in practice could never restrict any request for abortion.

- Abortions before 22 weeks are all automatically approved under Section 5
- Abortions after 22 weeks simply need approval from two doctors (Section 6). If the doctors are both abortion practitioners, most of whom believe in woman's right to full body autonomy at any point of pregnancy, then it would not be difficult to get approval.
- If for any reason a woman's request for abortion is denied on ethical grounds by any doctor (even an abortion practitioner), they are required by Section 8.3 to refer to a doctor or clinic who will approve of the abortion. That effectively allows abortion at up to birth on request by the mother! There would **never** be a case where a woman can be legally denied an abortion.
- And if no doctor agrees and she decides to take it into her own hands and self-induces an abortion, Section 10 says she commits no crime, no matter the gestation of the child, no matter if they were viable age or not. This is horrific!

Let me show you how the proposed laws offer zero restrictions to abortion based on some real life cases:

- **Unborn child diagnosed with a deformed left hand¹** - At 23 weeks, a Chinese couple learned their unborn son was diagnosed with ectrodactyly, a deformity of the fingers in his left hand. The parents wanted to terminate to prevent their child living with a disability and being bullied, however they were denied an abortion since the abnormality was not severe. The mother grew depressed that her child would suffer a difficult life, so a couple weeks later she was referred to a hospital that terminated her son at 28 weeks.

¹ 'Inconsistency and fear surrounds late-term abortion' *Sydney Morning Herald* (12 December 2014)

Should this abortion have been allowed? I would argue 'no'. Here is a case where the rights of the unborn child should have had greater weight and the boy's right to life should have outweighed his mother's right to terminate.

A better, non-violent solution would have been counselling the parents to reduce their anxiety about their son's perceived poor quality of life, connecting the parents with support groups with other families with similar diagnoses, offering the option to adopt if they felt shame in raising a disabled child, lastly offering termination of pregnancy **via pre-term delivery of a live baby** rather than abortion which only promises a dead baby.

Under the proposed new *Termination of Pregnancy Bill* this abortion of a 28 week boy with deformed fingers would be legal – this is disability discrimination!

- **Unborn child with dwarfism diagnosis**² - A 32 week fetus was aborted after being diagnosed with dwarfism. The condition was discovered at 20 weeks and the mother was distressed to the point of being suicidal. The doctors that performed the abortion believed they had a moral obligation to help her.

Should this abortion have been allowed? Again I would argue 'no'. The mother's distress and fear over her child's disability to the point that she was suicidal and wanting to terminate her almost born child was clearly irrational. Again, the child's right to life should have outweighed his mother's right to terminate. The mother should have been given therapy to relieve her distress. At 32 weeks, the child could have been safely induced for live delivery and if the mother did not want to parent them the child should have been place for adoption.

Under the proposed new *Termination of Pregnancy Bill* this abortion of a 32 week gestated baby with dwarfism would be legal – again, disability discrimination.

- **Mother facing difficult life issues**³ - A woman who had a healthy 26 week pregnancy was denied an abortion at a public hospital because she was requesting the abortion for psychosocial issues –she was depressed over recent life changes (her daughter was suicidal, she had financial hardships, she recently split from her partner/father). Though she was denied an abortion it was technically legal under VIC law and the hospital policy was examined.

Should this abortion have been allowed? No. The mother was facing a temporary crisis and she should be assisted and supported but terminating this child would be a breach of the innocent child's right to life.

Under the proposed new *Termination of Pregnancy Bill* the abortion of this healthy 26 week gestated baby would be legal.

3. The Bill essentially legalise euthanasia of very young children.

I am also concerned that in the cases of fetal abnormalities, particularly non-fatal abnormalities, that abortion would be used as a form of euthanasia for children not even severely disabled – for example, children diagnosed with Down Syndrome, Cleft Palette, Club Foot, Spina Bifida, etc.

² 'An unpleasant procedure that is sometimes necessary' Sydney Morning Herald (30 October 2011)

³ 'Royal Women's Hospital refuses request for abortion of 26-week-old foetus' The Age (23 October 2015)

An example situation is the couple mentioned above you aborted their son at 28 weeks because of a deformed hand. They were apparently severely distressed at the thought that he would grow up bullied. This here is a clear example of abortion being used for euthanasia rather than to terminate a pregnancy. The outcome wanted was a dead baby rather than an ended pregnancy as this pregnancy could have been terminated with an induced birth.

Thank you for taking the time to read and consider my submission.

Malessa Brisbane

