

I am a GP and specialist Sexual Health Physician with a Diploma in Obstetrics and Gynaecology. I have been a practising doctor for over 20 years, for the majority of this time in rural, remote and regional Queensland. I have also worked in developing countries. My experience in obstetrics and gynaecology including pregnancy termination is extensive and I perform therapeutic terminations of pregnancy in Queensland. I am making this submission as an individual and not as a representative of any organisation.

Current situation in Queensland

The current law in Queensland, the 1899 Criminal Code, was written before pregnancy tests, ultrasound scans or antenatal testing existed and was designed to protect women from unscrupulous and dangerous procedures. Applying this law in the 21st century results in confusion and fear and actually *causes* harm to women seeking this necessary gynaecological procedure.

In Queensland, women can legally undergo antenatal testing for foetal abnormality, but are told at the same time that they cannot legally terminate their pregnancy, regardless of the result. Queensland Health regulates therapeutic termination of pregnancy which I carry out in accordance with a Queensland Health approved protocol. Yet the procedure remains technically illegal. Most women do not even realise this until they are in the situation of requiring a termination. I spend a large amount of time explaining legal jargon and interrogating women as to why their request for termination fits into the legal grey zone in which doctors in Queensland practice and dealing with their fears regarding prosecution as best I can. My time and expertise would be much more appropriately spent discussing and providing contraception.

The legal cloud under which we practice has led to a situation where some colleagues will not even discuss cases if the woman is considering or needing termination. Difficulties between departments and clinicians, who should be working together for the good of the patient, arise and are unresolved because of this law.

Patients requiring admission and surgical management have been turned away from some hospitals on what are clearly spurious, non-clinical and sometimes apparently punitive grounds, but the doctors responsible for these decisions have fallen back on the illegality of abortion as grounds for their decisions. Patients who have been told their procedure is illegal do not make formal complaints.

I would ask you, if I could, to please spend a day in my clinic. How would you interpret under law - imagining that you are a clinician, not a lawyer or Member of Parliament - and what would you say to a woman who has been sexually assaulted and finds herself pregnant? The victim of domestic violence who has no control over her fertility and does not wish to be pregnant to her abuser? The mother of multiple, severely autistic children for whom contraception has failed? The homeless, unsupported, pregnant teen? The mentally ill woman with an unplanned pregnancy? The working woman with three grown children and an unplanned, unwanted pregnancy late in life? The woman who has fallen pregnant on a Category X drug (causes severe foetal malformations)? The alcoholic drug user with an unplanned pregnancy? The young woman whose friend told her to 'give her body a break' from contraception? The young woman whose health literacy is such that she believed she would not fall pregnant until she wanted to? That she could not fall pregnant from her first sexual experience? Who believed she had been given a contraceptive when it was in fact a routine vaccination? The teenager whose boyfriend bashed her when she had a contraceptive implant inserted and demanded that she get the 'slut stick' removed? The single mother of a

severely disabled child with an unplanned pregnancy, who has had an amniocentesis and presents in tears having been told to leave the clinic because she dared to ask for a termination if the result was abnormal (after previously being refused permanent contraception by the same hospital)? The list goes on - these are all real and many of them are frequent situations.

Many Queensland women have spontaneous miscarriages and an estimated 1:4 deliberately terminate a pregnancy in much the same way. Refusing to remove abortion from the criminal code contravenes human rights (1), contradicts the position of the Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG) (2), and says that 1 in 4 Queensland women are criminals, not to mention the doctors who perform the procedures. Although accurate data on abortion is not collected in Queensland (another problem caused by this legislation), I can tell you what it is like at the coal-face. Parenting or adoption are not always realistic options. The vast majority of terminations are performed in the first trimester, as is the case in other Australian states and territories (3). Earlier is safer (4) for both medical and surgical terminations. Earlier medical terminations involve less bleeding and less pain. Currently, as abortion is technically illegal, some jurisdictions will not approve or allow referral for the procedure, and this mostly affects women in regional and remote areas. These women's lives are effectively in the hands of one individual's lay interpretation of the law. It therefore becomes expensive and complicated for many women from rural and remote areas to make their way to an abortion provider. The result is that it takes much longer for these women to receive treatment and as a result, their procedure is delayed. Although termination of pregnancy is a safe procedure (4) and is in fact safer than carrying a pregnancy to term (5) the risks are unnecessarily increased by this delay (4).

The law has created a situation in Queensland where a well-resourced woman in South-east Queensland can manage to terminate a pregnancy early and simply, but, for example, a troubled 12 year-old in a regional area - despite agreement between herself, her parents, her doctors and therapists - has to apply to the Supreme Court and endure significant delay in order to terminate her pregnancy, thus enduring a more complex and gruelling procedure.

Termination of pregnancy is a procedure that will always be required under some circumstances. It is a human right, as described by the WHO and UNHRC(1) yet it is denied under the Queensland government. Australian trainee obstetricians and gynaecologists undergo training for this procedure (2), which they are not legally allowed to perform in Queensland.

Abortion rates

It has been alleged that if abortion is decriminalised there will be a sudden increase in requirement for this procedure. This is simply not the case, as can be seen in other Australian states and territories (3,6,7) (NSW has a similarly outdated law). **Restrictive abortion laws do not decrease the number of abortions taking place and liberal abortion laws do not increase abortion rates.** These facts are consistent across the world (6,8). In fact the **countries with the lowest abortion rates have the most liberal abortion laws** (e.g. Switzerland <7/1000, the Netherlands <10/1000) (9,10,11). Canada completely decriminalised abortion in 1988, but the abortion rate is low at 15.4/1000 and falling (9). The abortion rate in Queensland is difficult to estimate, but Australia's national abortion rate is around 20/1000. Restrictive abortion laws do, however, result in later abortions and more unsafe methods of abortion (8).

Freeing Queensland women from the uncertainty, fear and tyranny of this legislation would allow more time and resources to be spent on reproductive health education and family planning. Decriminalising abortion in Queensland is not only long overdue, it would make abortions safer; they would on average occur earlier and women would be unlikely to attempt to perform them themselves (which they do). It would ensure that communication between treating clinicians is appropriate and professional and directed at achieving the best outcome for the patient, which the public are entitled to expect.

'Late-term' abortions

I also feel compelled to address the issue of so-called 'late-term' abortions, which is often used to try to distract from the real issues surrounding the decriminalisation of abortion. The stories invented and perpetuated by those without knowledge of the facts and/or who personally disapprove of abortions are simply fabrications.

The delivery of a viable infant is simply that - a delivery. Viable babies are not aborted. When terminations at or after 20 weeks' gestation do occur, they are rare and tragic cases - (2% of abortions in South Australia), such as an extreme maternal condition or late diagnosis of a lethal foetal abnormality, where the parents have decided they cannot go through a pregnancy carrying a dying or doomed baby. In this case their wishes *must* be respected. They should not be prosecuted subject to an outdated law, written before foetal diagnosis was possible. To force them to go through a pregnancy with the knowledge that their baby cannot live, when they feel unable to do so, would be cruel and unnecessary.

In such cases, where surgical termination is not appropriate, early labour may be induced and in my experience the parents hold their baby and grieve while he or she passes away naturally and peacefully, being provided with palliative care as required. It is agonisingly sad. I refer to cases such as anencephaly - where the baby lacks the majority of its brain and cannot survive - and other terminal and untreatable conditions. These cases are tragic beyond belief, but mercifully rare. The idea that somehow women would request (why?) and doctors would perform '8 1/2 month abortions' (n.b. there is no such thing!) is disingenuous, disrespectful and an appalling attempt to hijack a serious medical issue.

It is the parents in these extraordinarily difficult cases who are inevitably traumatised by arbitrary gestational-limit legislation. The last thing they need is to have their traumatic situation compounded by being forced to make a rushed decision.

Counselling

Counselling services for pregnant women should be voluntary, free and impartial. Mandatory counselling should not be used to create another barrier for women seeking termination. Very few women utilised the government-funded 'pregnancy hotline' in 2007. Although counselling is offered, in my experience few women wish to access this service.

Professional regulation of medical procedures including therapeutic termination of pregnancy.

I work in one of the most highly regulated professions in Australia. I am accredited and supervised by Queensland Health and AHPRA, the RACGP, RACP, RANZCOG and AChSHM, not to mention specific prescribing programmes such as MS 2-step. I practice according to the principals of evidence-based medicine and peer-reviewed scientific data, not my personal beliefs.

It is not appropriate to seek to additionally regulate medical practice through the Criminal Code. No other medical procedure is treated this way. The Code does not state, for example, which surgical procedures can be performed for particular groups of people. The training of surgeons and the situations under which specific procedures necessary are regulated by the

College of Surgeons and updated according to clinical data and evidence. The Criminal Code does not outlaw surgery for certain individuals because such a legislation would be redundant and these decisions are not the responsibility of the courts.

The same applies to the procedure of pregnancy termination. It is a medical procedure which should not be in the Criminal Code and courts and legislators should not be involved in deciding who should and should not undergo this already highly regulated procedure.

The future.

It seems that there are many people with the power to resolve this situation who would rather sit on their hands. It is important that these people realise that refusing to resolve this situation is contrary to the positions of respected and knowledgeable stakeholders such the RANZCOG(2) and UNHRC(1), is completely contrary to majority public opinion - including the opinion of the majority of religious people (12) - and is causing harm.

- 1) United Nations General Assembly 66th session, August 2011. Right of everyone to the enjoyment of the highest attainable standards of physical and mental health. Report by the Special Rapporteur of the Human Rights Commission. Section IV: Impact of criminal laws and other legal restrictions on sexual and reproductive health. 1. Criminalisation and other legal restrictions related to abortion.
- 2) Royal Australian and New Zealand College of Obstetricians and Gynaecologists, College Statement C-Gyn 17 Termination of pregnancy Reviewed March 2016
- 3) Pregnancy outcome in South Australia, 2013. Pregnancy outcome unit, SA Health, October 2015.
- 4) Guiahi Maryam, MD, MS., Davis Anne MD. MPH. Clinical Guidelines: First trimester abortion in women with medical conditions, Contraception 86, Society of family planning (USA) Oct 2012 pp 622-630
- 5) Raymond EG, Grimes VA. The comparative safety of legal induced abortion and childbirth in the United States. Obstetrics and Gynaecology 2012, 119(1) pp 215- 219
- 6) Prochoice Queensland Abortion facts: www.prochoiceqld.org.au
- 7) De Costa Caroline M, Douglas Heather. Abortion law in Australia: it's time for national consistency and criminalisation. MJA November 2015, 203(9) pp 349-351
- 8) Sedgh, Dr. Gilda, ScD, Henshaw Stanley, PhD, Singh, Susheela, PhD, Ahman Elisabeth, MA, Shah, Iqbal H, PhD. Induced abortion: estimated rates and trends worldwide. The Lancet October 2007 370(9595) pp1338-1345
- 9) Guttmacher Institute (for sexual and reproductive health and rights, USA) 2016 fact sheet. Induced abortion worldwide. Global incidence and trends.
- 10) O'Dea Clare The secret of Switzerland's low abortion rate. October 2012 fertility Matters, Swissinfo.ch accessed at: [http://www. swissinfo](http://www.swissinfo)
- 11) Abortion legislation in Europe, Law Library of Congress, January 2015 accessed at [library of congress](http://www.libraryofcongress)
- 12) Betts Katherine. Attitudes to abortion: Australia and Queensland in the 21st century Monash University. People and place, 17(3) pp 25-39 Monash University Centre for population and Urban Research. <http://arrow.monash.edu.au/hdl/1959.1/481991>