

Sara Branch
29th June, 2016

Dear Committee,

I write to you as a concerned member of the community who has seen the negative effects Queensland's abortion law has had on so many women and children. While I was a volunteer counsellor with Children by Choice, followed by a time as a member of their Management Committee, I came to understand the complexity of this issue (the interrelated factors of disadvantage, violence and circumstance) and the range of emotions it can raise in individuals (fear, sadness, stress and relief). It is for this reason I was hopeful when I heard about the *Abortion Law Reform (Woman's Right to Choose) Amendment Bill 2016*. I would like to commend Rob Pyne for introducing the bill to the parliament and encourage the committee to consider the complexity of this issue and the weight of evidence in support of change (rather than the emotions that often surround this issue).

There are a number of key points, many of which are related, in relation to the current law that I would like to stress (some of this information was sourced with permission from the Pro Choice Queensland website):

Queensland abortion law is out dated

The Queensland Criminal Code statutes on abortion date from 1899, and were based on UK legislation from 1861, long before women had the right to vote and many advances that we take for granted. In a day and age when we are trying everything to support women and advance their standing the community, especially women from disadvantaged backgrounds and those experience violence, it is truly offensive that women and those who want to support them continue to be treated as potential criminals.

The law is unclear

No definition of what constitutes a lawful or unlawful abortion is provided in sections 224, 225 and 226 of the Queensland Criminal Code. Rather these sections provide for criminal sanctions and jail terms for women 'unlawfully' having abortions and doctors 'unlawfully' providing them. However, another Criminal Code statute (s282), is commonly referred to as a possible defence to charges of unlawful abortion, and states that:

A person is not criminally responsible for performing or providing, in good faith and with reasonable care and skill a surgical operation on or medical treatment of:

- a) a person or unborn child for the patient's benefit; or*
- b) a person or 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 circumstances of the case.*

Section 282 is usually combined with case law from District Court level in *R v Bayliss and Cullen* in 1986 to mean abortion is generally regarded as lawful if performed to save a woman's life or to

prevent serious harm to her physical or mental health. However, this is all very much open to interpretation and no legal definitions of what constitutes 'serious harm' exist.

Furthermore, if a lawful abortion may occur where a woman's life or health is at risk of serious harm only the impact on a woman's health is able to be taken into account. This means that rape, incest and fetal anomaly, for example, are not grounds in or of themselves for a lawful abortion. The current law does not pass the common sense test.

The law unfairly impacts disadvantaged women

The complexity related to the laws means that doctors are reluctant to become involved in abortion, resulting in limited numbers of clinics (10 specialist private day surgeries and some GPs trained to provide medication abortion) that will and can provide safe terminations. As a result, the cost of the termination can be very expensive. Medication abortion through a GP generally has an out of pocket cost of between \$250 and \$400 depending on the provider, and a surgical procedure can cost into the thousands of dollars depending on a woman's location and the gestation of her pregnancy. Importantly this is just the cost of the termination and before we consider the cost of travel and accommodation for women (and support person as most services ask when travelling they travel with a friend) who have to travel due the lack of specialist private day surgeries. For women from regional and remote parts of Queensland this can be a considerable cost. It's not uncommon for a first trimester surgical abortion to cost a woman from rural or regional Queensland in excess of \$2000 with all these things taken into account.

Women pregnant after sexual assault, those with serious health conditions, those experiencing severe violence, and women who are homeless, are regularly turned away from Queensland public hospitals when requesting abortion. Rather these women should be shown our support and care rather than making them feel as if they are a criminal. The reason why women often feel like a criminal when seeking an abortion is that information on abortion services and legality can be hard to find (as indicated in my previous point), and GPs and other health professionals are under no obligation to refer women onwards if they themselves are personally opposed to abortion. Mis-truths about abortion (eg. that it causes cancer) and the law will only be able to be clarified and discussed out in the open once the law has been changed.

In short, the state of access currently means that women living in metropolitan areas who are financially well resourced and can find the information they need are generally able to have an abortion in Queensland. Alternatively, women living in poverty, or those in rural or remote areas of the state, younger women, those with little access to social or financial support, and those living with violence, but are no less in need, are finding it increasingly difficult to access services, and for a growing number it is just too hard.

Unplanned pregnancy and abortion are a reality and has been for some time

Despite what some may suggest unplanned pregnancy is common making abortion a reality for many women. It's estimated that half of all pregnancies in Australia are unplanned [1], and that the majority of these occur while women are using contraception [2]. No contraceptive is 100% effective; the most common contraceptive in Australia, the oral contraceptive pill, is around 91% effective at typical use, meaning that up to nine women out of every hundred using it will fall

pregnant in a year [3]. While not all unplanned pregnancies lead to an abortion at least one in four Australian women will have abortion at some point in their lifetime [4]. Unplanned pregnancy and abortion is a reality - laws that criminalise abortion risk criminalising over a quarter of the female population of Queensland.

The community is ready for reform

How many opinion polls do we need to know that Queenslanders support a change of law. Reliable opinion polling consistently shows that around 80% of Australian adults support a woman's right to choose. The 2003 Australian Survey of Social Attitudes (AuSSA) found that 81% of those surveyed believed a woman should have the right to choose whether or not she has an abortion [5]. I support this view. I don't expect someone else who has a strong religious or cultural belief against abortion to have an abortion but I support the view that everybody has the right to choose whether they support abortion or not. Even those who identify as religious support a woman's right to choose. The 2003 AuSSA found that religious belief and support for legal abortion are not mutually exclusive, with 77% of those who identify as religious also supporting a woman's right to choose [5].

A survey conducted by Auspoll in 2009 of over 1000 Queenslanders found that almost 4 out of 5 voters wanted the law changed so abortion is no longer a crime [6]. Moreover, a review of over 20 years of data on attitudes to abortion published in October 2009 found that "more than half the electorate in Australia and in Queensland support freedom of choice, and a further third support the availability of abortion in special circumstances... As far as attitudes are concerned, Queensland is no different from the rest of Australia" [7]. On average, only approximately 4% of the Australian community are opposed to abortion in every circumstance; Betts states that "Such opposition as there is is concentrated among a few religious groups and among people aged 75 and over" [7].

Not just the community are supportive of changing the law, professional associations are also supportive (many for the reasons outlined above). The Royal Australian College of Obstetricians and Gynaecologists, the Public Health Association of Australia, and Sexual Health and Family Planning Australia (now called the Family Planning Alliance Australia), all advocate for the decriminalisation of abortion and equity of access to abortion services. A 2010 survey published in the Medical Journal of Australia found that 85% of practicing obstetricians and gynaecologists are not opposed to abortion, and 89% of these doctors agree that abortion should be available through the public health system in all states and territories [8]. The Australian Medical Association Queensland said in 2009 that current abortion laws are unclear and do not provide certainty for doctors or for women. The AMAQ stated that Queensland's "abortion laws are a barrier to a doctor's first duty – best patient care" [9].

In late 2011, United Nations Special Rapporteur for Health Anand Grover released a report examining the interaction between the right to health and criminal laws relating to sexual and reproductive health. In it, he stated that the right to sexual and reproductive health is a fundamental part of the right to health. He also stated that criminal and other legal restrictions on abortion violate the right to health, and that the application of such restrictions as a means to achieving public health outcomes is 'often ineffective and disproportionate'. The report encouraged all UN member states to decriminalise abortion [10].

In summary, I urge the committee to consider these factors – the law is outdated, it is unclear, it disadvantages some of the most vulnerable women in society, unplanned pregnancy and abortion is

a reality and the community is ready for change – when preparing their report. Time has come to stop treating women who seek to have an abortion and those who help them as potential criminals.

Many thanks,

Sara Branch

References

- [1] C Rissel, J Richters, AE Grulich, RO de Visser, & A Smith, 'Sex in Australia: attitudes towards sex in a representative sample of adults', *Australian and New Zealand Journal of Public Health*, vol. 27, no. 2, April 2003, pp.118–123.
- [2] W Abigail, C Power, I Belan 'Changing patterns in women seeking terminations of pregnancy: A trend analysis of data from one service provider 1996-2006' *Australia and New Zealand Journal of Public Health* Volume 32, Number 3, June 2008 , pp. 230-237(8)
- [3] *Efficacy of contraceptive methods* by Family Planning Alliance Australia, 2014. Available online [pdf] at http://familyplanningallianceaustralia.org.au/wp-content/uploads/2014/11/FPAA_Efficacy_SCREEN.pdf.
- [4] See for example the reports from the Pregnancy Outcome Unit in the South Australian Department of Health; they are available online at <http://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/about+us/health+statistics/pregnancy+outcome+statistics>.
- [5] K Betts "Attitudes to Abortion in Australia: 1972 to 2003" *People and Place* 22, 2004.
- [6] *Queensland voters' attitudes towards abortion* Report prepared by Auspoll, May 2009. Polling commissioned by Children by Choice.
- [7] K Betts "Attitudes to Abortion: Queensland and Australia in the 21st Century" *People and Place* vol 17, 2009. Available online at <http://researchbank.swinburne.edu.au/vital/access/manager/Repository/swin:14400>.
- [8] CM de Costa, DB Russell and M Carrette 'Views and practices of induced abortion among Australian Fellows and specialist trainees of the Royal Australian and New Zealand College of Obstetricians and Gynaecologists' *Medical Journal of Australia* 2010; 193 (1): 13-16. Available online at <https://www.mja.com.au/journal/2010/193/1/views-and-practices-induced-abortion-among-australian-fellows-and-specialist>

[9] See 'Doctors call for abortion law certainty', *Brisbane Times* 27 October 2010. Available online at <http://www.brisbanetimes.com.au/queensland/doctors-call-for-abortion-law-certainty-20101027-173tt.html>.

[10] *Right of everyone to the enjoyment of the highest attainable standard of physical and mental health*. Available in full on the United Nations website at http://www.un.org/ga/search/view_doc.asp?symbol=A/66/254