



Submission by the Uniting Church in Australia, Queensland Synod

Into the

Inquiry into Abortion Law Reform by the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee

8 July 2016

The Uniting Church in Australia, Queensland Synod (The Uniting Church) thanks the Committee for the opportunity to contribute to the discussion on this difficult and complex topic.

Our Vision

The Christian story calls us to work toward communities characterised by love, justice, forgiveness, inclusion, connectedness and compassion.

Our vision is for a community structure which provides sufficient economic, emotional and social supports to women so that they are able to bring up children. In this community, society will not fail women, leaving them with limited choices. Government and society will work together to create conditions in which each person can live a full life and in which the lives of all are protected from misuse, violation and manipulation by others.

Our vision is for a community where children are recognised and valued as the key to both the present and future of our society. In this community all human life is regarded with awe and respect, valued as precious and never taken for granted.

Within the Uniting Church

The Uniting Church does not hold a position on abortion. Abortion is an immensely complex issue for the Uniting Church. It is not possible to hold one position that can be applied in every case because each person's circumstances are always unique.

The Uniting Church rejects two extreme positions: that abortion should never be available; and that abortion should be regarded as simply another medical procedure.

We believe that human life is God given from the beginning. We believe that all human beings are made in the image of God and that we are called to respect the sacredness of life.

We believe in the sanctity of life and, in general, support the rights of the unborn child. Abortion does mean the end of human life, even though it is present only potentially, yet existing in a living form. We

reject the argument that a foetus is not a human life. When abortion is practised indiscriminately we believe it damages respect for human life.

We recognise, however, that we live in a broken world where people face very difficult circumstances and decisions. Respect for the sacredness of life means advocating for the needs of women as well as the unborn child. The reality is that many emotional, physical, financial and social issues can create a situation where a woman is forced to consider an abortion. We believe that Christians are called to respond to these complexities with compassion and generosity.

Women must be free to discuss their situation before they make a decision. The church can offer spiritual, moral and pastoral support to a woman at this time. The role of the church should be to offer care and support leading up to and following a decision, not to stand in judgement.

Some church members will support abortion in limited circumstances, and acknowledge that women facing very real difficulties in life must be given the opportunity to choose for themselves whether to have an abortion or not. It should also be stated clearly that we believe each case for abortion should be determined individually.

The need for regulation

Abortion or termination of pregnancy is currently a crime in the Criminal Code in Queensland, but legal in certain circumstances. This varies significantly between states and territories in Australia. The Uniting Church in Queensland believes there should be consistency across the nation in legislation relating to abortion.

It appears questionable whether abortion being a criminal offence is helpful or not, placing medical practitioners and pregnant women at risk of imprisonment and a criminal record. The Uniting Church in Queensland does, however, believe that abortion does need to be very strictly regulated, possibly under a different Act governing medical practice. There should be enforceable penalties involved for breaches, for example an abortion performed by a person who is not a registered medical practitioner.

Issues to be regulated should include:

1. A complete and clear definition of abortion

There is a need for a clear definition of abortion or what any legislation refers to. An assumed definition of abortion might be as the deliberate termination of pregnancy. This then leads to questions such as “is selective reduction considered abortion?” It could be argued that selective reduction aims not to end pregnancy, but to terminate one or more foetuses in a multiple pregnancy.

The Oxford Dictionary definition of abortion is “The deliberate termination of a human pregnancy, most often performed during the first 28 weeks”; also “The expulsion of a fetus from the womb by natural causes before it is able to survive independently.”¹ Clearly, the latter refers to spontaneous abortion also termed miscarriage, which must be distinguished from deliberate termination.

‘In **medicine**, an **abortion** is the premature exit of the products of conception (the fetus, fetal membranes and placenta) from the uterus. It is the loss of a pregnancy and does not refer to why that pregnancy was lost. A spontaneous **abortion** is the same as a miscarriage.’²

¹ Oxford Dictionaries, 2016, *Definition of abortion in English*, <http://www.oxforddictionaries.com/definition/english/abortion> accessed 30 June 2016.

² MedicineNet.com, 1996-2016, *Definition of Abortion*, <http://www.medicinenet.com/script/main/art.asp?articlekey=2091> accessed 30 June 2016.

A suitable definition might read: “The deliberate termination of a foetus in human pregnancy, with or without the premature expulsion of the products of conception (the foetus, foetal membranes and placenta) from the uterus.”

The legislation should also clearly define who is legally able to perform abortion, specifically registered medical practitioners, making it illegal for anyone else to do so.

2. The circumstances in which abortion may be appropriate

Most members of the Uniting Church would support abortion when there is rape or incest involved, when there is significant risk to the mother’s health—physical or mental—and possibly when the foetus is likely to have very significant impairment.

The Uniting Church would not support abortion on demand. It is a question of the value we place on human life. The rights of the mother and the rights of the foetus are both important and must be weighed against each other in what is likely to always be a difficult decision. Abortion on demand simply wipes out the value of the foetus and its potential human life.

We would be very wary of including economic circumstances as justification for abortion. Ideally, acceptable circumstances would be those that are clearly hazardous to the mother or an exceptional set of social circumstances which need to be considered in the light of human compassion.

Abortion should take place only after counselling of the mother and when all options have been explored.

3. The decision-making process

In making a decision regarding abortion the mother has to choose between the value of the life of the foetus and other values, both personal and social. To assist her to take into account all the factors relevant to her decision, it is necessary that counselling facilities be readily available to her and to those persons involved with her in the situation.

The Uniting Church considers it important that women have the support to consider alternatives to abortion – including proceeding with the pregnancy and keeping the baby with support if necessary or giving the child up for adoption. It is recognised that there are many couples unable to have children and, having exhausted other options, would love to adopt a child unable to be raised by its birth mother. It is noted that procedures relating to adoption, including access to information by the birth mother and the adopted child, have improved in recent decades. It is to be hoped that adoption could be managed in a positive, life-affirming way for all involved.

Once a woman has requested an abortion, the medical practitioner must assess her request, identify whether the criteria of risk to her health are met and ensure she has counselling.

Ideally there would be a lapse in time between counselling or the initial consultation and the procedure being carried out, to give time for the mother to consider the options. It is hoped that this important decision would not be made in haste.

4. Counselling

Counselling and support is essential for every woman considering an abortion. It should be provided quickly and in an impartial manner, with information provided on each option available to the woman.

If the decision is made to have an abortion, the follow-up support will be very important in both the short and long-term. Women deciding not to proceed should also have access to information and support. Churches may be a good source of acceptance and support for women and families.

5. Informed consent

Consent must be given by the pregnant woman for any procedure to terminate a foetus. No one can force a woman to have an abortion.

In the case of a mother unable to give consent, due to her age or decision-making impairment, there are other decision-making processes already in place. For adults with decision-making impairment such as intellectual disability, an application must be decided by the Queensland Civil and Administrative Tribunal (QCAT).³

It would only be when the life of the mother was in immediate danger and an immediate abortion would save her life, that consent would not be required. In these circumstances, justification of the decision should be reportable within the hospital or health facility or to Queensland Health.

6. Late-term abortion

○ **Cut-off point of gestation for the pregnancy to be considered late-term**

The various states and territories in Australia have widely differing points of gestation considered as late-term. This includes 24 weeks in Victoria, 28 weeks in South Australia, 20 weeks in Western Australia and 16 weeks in Tasmania. Abortion is available on demand in ACT up to full-term.

Queensland should carefully consider where to cut off when the pregnancy is to be considered late-term.

One logical place for the limit might be where the limits of neonatology are—23 weeks—the point from which a baby is actively supported following birth. This, however, means that this foetus hears and recognises its mother's voice, grasps, sticks out its tongue, practises breathing and sucks its thumb.

A better option might be the point at which the mother may start to feel the foetus move, around 18-20 weeks.

Earlier cut-off dates may be problematic when considering that the accuracy of early testing for foetal abnormalities prior to 14 weeks is not definitive in detecting problems. This may lead to the unnecessary abortion of a healthy foetus, which would always be a concern.

○ **Approval process for late-term abortion**

Most states have strict protocols for considering late-term abortion. Due to the advanced development and sentient nature of the foetus, the Uniting Church would only consider late-term abortion acceptable in very limited circumstances – when the life of the mother is at extreme risk or in other exceptional circumstances. One example would be of a foetus diagnosed with a condition like cancer that would kill it before birth. A decision could be made to have a late-term abortion to prevent the certain suffering of the foetus.

Queensland Health already has protocols in place for public hospitals.

There should be at least two medical practitioners involved in the decision, one of whom should be a specialist in this field. The decision-making process should be recorded and provided to hospital administrators and reported to Queensland Health.

7. Selective reduction

³ Legal Aid Queensland, 2015, *Medical consent*, <http://www.legalaid.qld.gov.au/Find-legal-information/Personal-rights-and-safety/Health-and-medical/Medical-consent> accessed 30 June 2016.

The Uniting Church is concerned about the practice of selective reduction (or termination of one or more fetuses in a multiple pregnancy), particularly in twin pregnancy, unless in specific high-risk scenarios. It is reported to be increasingly common practice in Australia to reduce a twin pregnancy to a single pregnancy to reduce the perceived risk to the mother or fetuses.⁴

In this age of modern medicine most of the risks associated with twin pregnancies can be managed and the majority of women expecting twins give birth to two healthy babies. If the mother is at significant risk because she has a specific medical condition or prior history of problems associated with twin pregnancy, then it may be reasonable practice.

When one of the fetuses is endangering the life of the other, then it is also reasonable to consider selective reduction, after other avenues for management have been tried.

When one foetus is identified as having a serious impairment, such that it would endanger the mother's mental health, that foetus might be terminated. The practice of this is of concern to the Uniting Church as it raises many ethical issues such as the value of life of a person with disability, whether the family would cope given sufficient information and support. (See below).

How is the foetus to be terminated chosen? It is alarming to contemplate a foetus being chosen for termination on the basis of gender, which has been the practice in some other countries, such as China.

We suggest that selective reduction be considered as abortion for the purposes of any legislative changes.

8. Foetuses with disability or abnormalities

Widespread prenatal screening is resulting in the abortion of increasing numbers of fetuses with severe disabilities or impairments. In some areas this means impairment that is incompatible with life.

The significant reduction in the numbers of people with disabilities such as Down syndrome is not due to our ability to heal them, but it is "because of our improved ability to weed them out."⁵ Women and couples are offered the option, and may even be urged to consider, eliminating those who have Down syndrome before they are born.

This sort of approach to people with disability is of deep concern to the Uniting Church. Society is judging what is worthy of life, rejecting people with difference in a practice that is deeply offensive to many parents of people with disability. It is basically saying to each person that lives with a disability that they should not have been born and are worthless in the eyes of the community. This is close to the practice of eugenics.

Fundamentally the Uniting Church views every life as valuable, every child and person as infinitely loveable and loved by God. People are born with every level of ability, with differences in appearance and function. This is part of the human condition.

Every mother or family presented with such difficult and painful knowledge deserves unbiased, sensitively presented information and peer support from other families. They need to see that a life lived with disability can be rich, happy and very rewarding. They need to know they can access

⁴ Colleen Davis and Heather Douglas, 2014, *Selective reduction of fetuses in multiple pregnancies and the law in Australia*, http://www98.griffith.edu.au/dspace/bitstream/handle/10072/67376/98933_1.pdf?sequence=1, accessed 30 June 2016.

⁵ Chris Meney, 2010, *Our society will be worse off if we reject Down Syndrome children*, <http://www.theage.com.au/it-pro/our-society-will-be-worse-off-if-we-reject-down-syndrome-children-20100328-r51x.html> accessed 29 June 2016.

adequate assistance to help them from day to day. They need time to let the information sink in, before a decision can be made.

If the state considers abortion of a disabled or impaired foetus as acceptable, where and how do we draw the line? The cut-off of level of impairment would need to be very high, where the disability truly is incompatible with life, not just an inconvenience to society. Offering abortion as an option for impairments such as partial absence of a limb is not appropriate. There is likely to be some impairment, but generally the child will lead a very functional and happy life with some minor modification.

The Uniting Church believes that how our society demonstrates care for its most vulnerable members, says a lot about who we are. Families should never feel they have no choice because the resources are too hard to find. There must be adequate resources provided by government to support women and families who have children with disability. Decisions regarding abortion should never have to be made on an economic basis.

9. Conscientious objection by medical practitioners

Medical practitioners who are requested to perform abortions, must be able to opt out. They should advise the mother on their position and refer them to a medical practitioner who does perform the procedure or to a suitable public health agency. In an emergency, medical practitioners must perform an abortion to save the life of the mother, regardless of their position.

Legislation in Queensland must safeguard the integrity and ethical values of all medical practitioners involved.

10. Access zones

Some states and territories have legislated privacy zones where anti-abortion protestors cannot approach women, harass them and cause terrible upset. This would be a useful provision to include in Queensland legislation. People entering a facility which provides abortion should not be threatened, harassed, interfered with or recorded.

Summary

The comments of the Uniting Church in Queensland about abortion are founded on the principle of the sanctity of life: that of the foetus or unborn child, and that of the mother.

We do not support abortion on demand, nor the position that holds that abortion should never be available. We do believe the abortion should be strictly regulated with enforceable penalties for breaches, but not necessarily located in the criminal code.

We recommend the inclusion of:

- a clear definition of abortion
- identification of who can perform an abortion (registered medical practitioner only)
- clarity around the circumstances in which abortion is appropriate: when the life of the woman is endangered because of physical or mental health concerns; in exceptional social and/or economic circumstances; or when the foetus has a disability or impairment incompatible with life
- counselling before and after abortion
- encouragement for the woman to consider adoption

- the absolute need for consent by the woman to the procedure
- the cut off point for late term abortion as 18-20 weeks
- strict protocols for late-term abortion, the process involving at least two medical practitioners, and only possible in very limited and exceptional circumstances
- mandatory reporting of late-term abortion
- selective reduction in multiple pregnancy within in the definition of abortion
- strict protocols for selective reduction, especially in twin pregnancy, where the mother's health is seriously at risk or one of the foetuses is in danger
- narrow guidelines for availability of abortion due to disability or impairment of the foetus – to include only impairment incompatible with life. With broader guidelines, the unspoken question of eugenics arises. There are important questions around the perceived worth of people with disability and the community's willingness to support them and their families properly
- safeguards for the integrity and ethical values of medical practitioners.

The Uniting Church urges caution in approaching this difficult topic. While we believe the rights of women are unquestionable, the rights of the unborn child must also be considered. There must be a reasonable balance between the two.

Signed

Rev David Baker

Moderator, Uniting Church in Australia, Queensland Synod