

Dear Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee members,

I am a Queensland public health professional who has worked in the sexual and reproductive health field for the past 18 years.

In my first submission to the committee in support of the decriminalisation of abortion in Queensland I wrote about the ten year vision for Health Services in Queensland outlined in the *My health, Queensland's future: Advancing health 2026* (Advancing Health 2026) report as well as providing a range of evidenced based literature to support repeal of the 19th century law provisions relating to abortion in Queensland.

I do not intend to repeat my first submission but would state that it also stands to support this second bill with its proposed reforms of the Health Act.

In this submission I want to speak as a Queensland woman who was born in a small rural community and has lived a large proportion of her life in regional Queensland as well as studying and working in Brisbane for a number of years.

I sat in the Cairns Courthouse in 2010 and listened to all arguments put forward when this law was last used in our state.

Judge William Everson at one stage in the trial referred to the archaic nature of the laws and defence barrister Kevin McCreanor explained that politicians have not changed the law in 111 years and now the state government had persisted in prosecuting this young couple.

But he said the state government did not control the courts. It would be the combined wisdom of twelve women and men of the jury that would determine the couple's fate. And they did. They found that the couple was not guilty of a crime for making this choice.

Prior to the trial, along with others in the Cairns community I had staffed stalls and had a large number of conversations with friends, family, work colleagues and neighbours about a woman's choice to have an abortion in Queensland today.

Universally everyone that I spoke with supported and trusted women to make this decision. Some would not make the choice to have an abortion themselves but they vehemently denied that the government or courts should impose upon women what was best when they were faced with an unwanted and unplanned early pregnancy or were faced with the heartbreaking decision in the late stages of a wanted pregnancy when life threatening abnormalities were discovered with the foetus or the health of the mother was compromised.

We know from the evidence presented during consideration of the *Abortion Law Reform (Woman's Right to Choose) Amendment Bill 2016* that the overwhelming majority of terminations of pregnancy occur within the first few months.¹ And the parliament is not seeking to restrict these services, however, it appears that there is not yet a momentum for law change. Perhaps, because services are available, the ongoing shame and stigma that persists with criminalisation is less apparent because women rarely speak publicly about it. Many women don't know about the laws and just expect services to be available when and if they require them.

Women who have abortions are not criminals. They are women. Women are vigilant to control their fertility but not all women at all times have the means to protect


themselves from an unwanted pregnancy. Contraception is unreliable, expensive, has side-effects and sex itself can be unpredictable, coerced, pressured or spontaneous and women can be vulnerable due to disability, mental health, age, poverty or education.

Is it the role of the law to say that a woman in her forties who has had five children and now has grandchildren should be seen as a criminal if she chooses not to continue with another pregnancy? Or that a young woman who has a violent partner she is trying to escape but who forced her to have unprotected sex the last time they were together should have to continue with a pregnancy when she doesn't want either to be a parent herself just yet or to have her former partner as the father of her child for the rest of her life.

Ordinary women face decisions around their fertility from their teens until menopause in their fifties. They are not criminals if they make a decision to terminate a pregnancy and the doctors who provide reproductive health service to them are also not criminals. It is also untruthful and highly offensive to suggest that women will change their behaviour and seek to terminate late pregnancies if the criminal law is altered and there is no interstate or international evidence to support this claim. It is time to consider this issue and it is time to change the law to improve the frameworks governing women's reproductive health in Queensland.

Certainly the parliament has acted recently to amend the Criminal Code in regard to removing references to sodomy and also equalising the age of consent for homosexual men. It is interesting that the move was explicitly supported as a means to help reduce stigma.

Health Minister Cameron Dick said the laws finally corrected an injustice and protected the health of young people. "By removing anachronistic value laden language and ensuring equality in the age of consent, the bill will not only improve sexual health outcomes, but also mental health outcomes for young Queenslanders." He said health experts found the older age limit could lead to people feeling compelled to withhold information about their sexual history from health practitioners for fear of legal consequences. [ABC News 16/9/16]



Yet every day in Queensland women seeking termination of pregnancy services have discussions with their health care providers as to the legality of their decisions and they fear that while they may fit within clinical guidelines, policy and practices that they may fall outside of the Criminal Code provisions from another era.

This also impacts on a woman's mental health and ability to speak freely with service providers and there was substantial evidence presented in the inquiry on the *Abortion Law Reform (Woman's Right to Choose) Amendment Bill 2016* that repealing the law will improve public health outcomes (see submission from the Public Health Association of Australia). The right of a woman to control her own fertility is not a "lifestyle" choice: it is a fundamental human right with real implications for women's daily lives and social, economic and health outcomes.²

We also know that the complexity of the law impacts on hospital and health service management support for termination of pregnancy service provision throughout most regions of Queensland. I hope that this will change now that the Health, Communities, Disability Services and Domestic and Family Violence Prevention

Committee members are aware of this from both the clients and staff who have made submissions but also from the professional bodies representing doctors, nurses and allied health practitioners.

Every other jurisdiction in Australia except NSW has moved to reform or repeal these ancient provisions. Why wait until we are the only state in the country who has not acted? How many more generations of Queensland women will grow up with these laws still influencing their reproductive health choices, as we have, and our mothers and grandmothers have before us? A Queensland government Taskforce on Women and the Criminal Code recommended in 2000 that these laws be repealed but there has been no action for the past 16 years until the opportunity which is presented now.

Retaining abortion within the Criminal Code is in direct opposition to the idea that women can be trusted to make autonomous decisions about what happens to their own bodies.

This is why these laws should now be repealed and these two bills should be supported together.

As a member of the Cairns community, one of the main things that myself and my peers drew from the court case in our city in 2010 was that a jury drawn from a small regional city in the far north of the state showed more wisdom and judgement about women's reproductive health by rejecting all charges than our state parliaments have managed to achieve by leaving these out of date laws in place.

If ordinary members of the Cairns community can decide that in Queensland today that abortion should not be a crime then it is time for our parliament to listen.

The issues that the Health (Abortion Law Reform) Amendment Bill 2016 seeks to address in conjunction with the *Abortion Law Reform (Woman's Right to Choose) Amendment Bill 2016* are:

only a doctor may perform an abortion: a person who is not a doctor (or a registered nurse administering a drug to perform an abortion under the direction of a doctor) would commit an offence.

I support this clause.

a woman does not commit an offence by performing, consenting to or assisting in an abortion on herself.

I support this clause and I note that many of the verbal submissions at the inquiry into the *Abortion Law Reform (Woman's Right to Choose) Amendment Bill 2016* also supported this in principle (even amongst those who were opposed to change overall).

an abortion on a woman who is more than 24 weeks pregnant may be performed only if two doctors reasonably believe the continuation of the woman's pregnancy would involve greater risk of injury to the physical or mental health of the woman than if the pregnancy were terminated.

While my first submission argued that gestational limits were not necessary I do not oppose this clause, which would be in line with the position in Victoria where abortion has been decriminalised.

conscientious objection no-one is under a duty to perform or assist in performing an abortion; however a doctor has a duty to perform an abortion if it is necessary to save a woman's life or prevent serious physical injury. Also, a registered nurse has a duty to assist in such circumstances.

I support this clause and believe that it addresses concerns by clinicians that they will not be forced to work in this area of health care delivery but that with the passage of all of these amendments women can be assured that they will be treated fairly and with respect when they approach health services.

patient protection or 'safe zones' a protected zone of at least 50 metres must be declared around an abortion facility; certain behavior, e.g. harassment and intimidation, is prohibited within a protected zone. Publishing images of a person entering, leaving or trying to enter or leave an abortion facility is prohibited.

I support this clause and believe it addresses these issues fairly for the public, staff and clients of services.

In summary, I hope that the committee continues to examine the evidence-based information presented to them in consideration of both bills which seek to remove the criminal penalties for Queensland doctors and women who are faced with the difficult decision around a termination of pregnancy.

I hope that in reading and listening to the evidence presented and in compiling your report that the main consideration be the women who require termination of pregnancy services in Queensland. That you focus upon their needs and their experiences and improving the legal and policy environment for them as the affected population.

I hope that the bills can move forward to be considered by parliament in 2017 and that women of this state are afforded the best healthcare options available to them within a legal environment that is fair and just and represents the 21st century.

Carla Gorton



References

1. Pregnancy Outcome Report in South Australia 2013, p.55. Available online



2. Centre for Rural and Remote Mental Health Queensland, May 2011, *Reproductive and mental health of young women living in rural and remote Australia: A scoping study.*