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Dear Colleague

Submission on Health (Abortion Law Reform) Amendment Bill 2016

Background

1. On 30 June 2016 the Region of Soroptimist International of South Queensland provided a submission in relation to the ***Abortion Law Reform (Woman's Right to Choose) Amendment Bill 2016*** ("the first Bill").[1]

2. We note the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee Parliamentary Report dated August 2016[2] and the first Bill addressed many of the issues that were subject of our submissions.

3. We note that the current private members bill, tabled by Mr Pyne, the **Health (Abortion Law Reform) Amendment Bill 2016** ("the second Bill"), additionally addresses aspects of the Committee's report on the first Bill, and, some of the evidence at the Committee Public Hearings also addresses some aspects of our submission on the first Bill.

Our recommendations on the Second Bill

4. We commend the second Bill as it achieves a reasonable balance between the rights of the woman and the community expectations concerning pregnancy terminations, and make the following comments:

4.1. Where a conscientious objection is taken under the second Bill, a referral to other health professionals who perform pregnancy terminations should be considered to be included to avoid unfairness to women and to reduce the risk of late gestation terminations. This may, for example, be

[1] https://www.parliament.qld.gov.au/documents/committees/HCDSDFVPC/2016/AbortionLR-WRC-AB2016/submissions/847.pdf submitted 30 June 2016, accessed 3 October 2016
[2] http://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/2016/5516T1337.pdf accessed 3 October 2016

facilitated by the provision of a list of doctors from a state register, who perform pregnancy terminations;

4.2. Consideration be given to an education scheme about the access to termination procedures in public hospitals as they at present are performed largely in clinics which incurs cost to the woman;

4.3. Possible removal of the word "abortion" in the second Bill to avoid unnecessary stigma; and

4.4. Possible amendment to have a 150 metre exclusion zone.

About Soroptimist International and this submission

5. Soroptimist International works to ensure that the voices of women and girls around the world are included in international decision making and the policy setting, as well as within Australia. Soroptimist International is active at all of the major United Nation centres around the world maintaining a network of permanent representatives. The organisation holds a General Consultative Status with the United Nations Economic and Social Council and maintains official relations with several agencies and technical bodies.
6. Soroptimist International, though not an abortion or pro-choice lobby group, as an organisation internationally endorses the general right of the girl child to be free from sexual harm, and the right to every girl child to have a child hood without being a victim of child marriage, or other sexual exploitation. As an organisation, Soroptimist International promotes access to health services, family planning services and family planning education for women and girls.[3]
7. The Region of Soroptimist International of South Queensland[4] in providing this submission emphasises that we are not lobbying for abortion or pro-choice for women, but as an advocacy body for women, our membership base consists of women professionals including doctors, medical professionals and other health professionals who are impacted by the consequences of legislation that criminalises pregnancy terminations as the law presently stands in Queensland.
8. Additional flow on submissions arise from the second Bill which we also address.
9. This submission reflects the views of the majority of our members, and we acknowledge that some of our members may have alternate views.

Decriminalisation is essential for health professionals

10. Our members strongly support the decriminalisation of the current pregnancy termination related provisions of the *Criminal Code 1899* (Qld).

[3] "Where We Stand" Position Statements accessed September 2015, [redacted]
[4] Covering a broad area from the Gold Coast, Toowoomba to Deception Bay area

11. Our members hold the view that whether persons are prosecuted or not is not the issue, and consider that no medical professional, allied health, other health worker or adult ought to face the risk of criminal charges when a pregnancy is terminated.
12. Our members also consider that if the current legislative regime is varied by de-criminalising pregnancy terminations, that additional legislative reform be considered to ensure that the *Criminal Code 1899* (Qld) reflects that persons who assault a pregnant woman or harm an unborn child otherwise remains liable to criminal prosecution.
13. This would remain the case under current legislative provisions of the *Criminal Code 1899 (Qld)* beyond merely common assault i.e. for example, a person who assaults a pregnant woman and should she miscarry, that person would be liable for murder and / or manslaughter, as well as other offences
14. As was clear from the Committee Public Hearings in relation to the first Bill, many health professionals are uncertain as to their liability when pregnancy terminations occur under the current legislative regime in Queensland. This affects accessibility to advice,[5] and impacts on the timeliness of carrying out pregnancy terminations in Queensland.
15. It is imperative that legislative reform be effected to protect medical and health related professionals from criminal prosecution, independent of whether or not persons are routinely prosecuted at present – the risk that such procedures are not performed as a result, or that women are forced to undertake later gestation procedures, warrant the decriminalisation and clarification of the law in Queensland

Impact of domestic and family violence issues on women during pregnancy

16. As an advocacy body for women, our members regularly advocates for the eradication of domestic and family violence.
17. Women are at an increased risk of experiencing violence from an intimate partner during pregnancy and unintended pregnancy is often an outcome of an existing abusive relationship. Domestic and family violence, if it already exists in a relationship, is likely to escalate during pregnancy, or if absent until that time, frequently commences for the first time during pregnancy. [6]
18. As noted in the *"Not Now Not Ever"* Report, some studies place the frequency of violence during pregnancy at 42%, with 17-20% of women experiencing domestic violence for the first time while pregnant.[7] Almost 60% of women who had experienced violence by a partner were pregnant at some time during the relationship. Of these, 36% experienced

[5] https://www.parliament.qld.gov.au/documents/committees/HCDSDFVPC/2016/AbortionLR-WRC-AB2016/14-trns-2Aug%202016.pdf accessed 3 October 2016
[6] Website: Australian Institute of Family Studies; https://aifs.gov.au/cfca/publications/domestic-and-family-violence-pregnancy-and-early-parenthood, accessed 29 June 2016
[7] Website: Queensland Department of Communities https://www.qld.gov.au/community/documents/getting-support-health-social-issue/dfv-report-vol-one.pdf, accessed 29 June 2016, page 143

the abuse during their pregnancy and 17% experienced abuse for the first time when they were pregnant. In addition, the frequency and severity of violence increases during pregnancy as does psychological abuse. [8]

19. Reproductive control, coercion and sexual assault by an abusive partner may result in both unintended pregnancies and forced terminations of pregnancy, or, interference by forcing / controlling the woman to maintain the pregnancy. In one study, women described various ways in which abusive partners had controlled their reproductive and sexual choices including sabotaging their contraception, refusing to use contraception, rape and attempting to influence the outcome of pregnancies. [9]
20. These issues, and others, were highlighted in the submissions made by the Women's Legal Service Queensland in the public hearing on the first Bill.[10]
21. The ongoing absence of legislative reform concerning pregnancy terminations leaves these women vulnerable to ongoing abuse, and the plight affecting these women remains.

Indigenous women and pregnancy

22. As an advocacy body for women, our members regularly advocate for issues affecting Indigenous women.
23. There are a variety of health disadvantages experienced by Indigenous persons in Australia that arises from a complex set of historical, economic and social issues.
24. In terms of birth rates, census data from 2011 reveals a higher birth rate for indigenous teenagers. Teenage Indigenous women are almost five times more likely than other teenage women to become pregnant.[11]
25. When considered against the rates of domestic and family violence for Indigenous women, reported as being two to four times higher than non-Indigenous women and, where that violence is more serious being more likely to result in hospitalisation,[12] with the rates of sexual abuse for Indigenous persons in Queensland almost four times higher than for non-Indigenous persons,[13] the plight of Indigenous women is clear.
26. The greater prejudice that Indigenous women face as a result will remain, unless legislative

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[8] Website: Queensland Department of Communities https://www.qld.gov.au/community/documents/getting-support-health-social-issue/dfv-report-vol-one.pdf, accessed 29 June 2016, page 195
[9] Website: Australian Institute of Family Studies; https://aifs.gov.au/cfca/publications/domestic-and-family-violence-pregnancy-and-early-parenthood, accessed 29 June 2016
[10] Hearing on 2 August 2016, pages 40-44, https://www.parliament.qld.gov.au/documents/committees/HCDSDFVPC/2016/AbortionLR-WRC-AB2016/14-trns-2Aug%202016.pdf accessed 3 October 2016
[11] Australian Bureau of Statistics (2012) *Births, Australia, 2011*. Canberra: Australian Bureau of Statistics cited on website: Australian Indigenous Health Info Net http://www.healthinfonet.ecu.edu.au/population-groups/women/reviews/our-review#fnl-15, accessed 29 June 2016
[12] Website: Australian Institute of Criminology http://www.aic.gov.au/media_library/conferences/2003-abuse/stanley.pdf , accessed 29 June 2016, page 5; Website: ANROWS http://anrows.org.au/sites/default/files/Fast-Facts---Indigenous-family-violence.pdf, accessed 29 June 2016
[13] Website: Australian Bureau of Statistics http://www.abs.gov.au/ausstats/abs@.nsf/0/A06006790A9C4474CA2577360017A885?opendocument , accessed 29 June 2016

reform around pregnancy terminations occurs.

The proposed gestation period in the second Bill of 24 weeks

27. Some of our members have expressed concern as to the appropriateness of termination procedures being undertaken, particularly when late in the gestation period and ethical issues that arise in this regard.
28. This is a matter that was raised during the Committee Public Hearings on the first Bill.
29. Pregnancy terminations, particularly those carried out at a later gestation point in pregnancy, carry greater risks to the woman.
30. Factors that impact on late gestation terminations may include prohibitive costs of a pregnancy terminations, as many incur considerable out of pocket expenses. As the gestation advances, the costs of the procedure increases. Whilst he vast majority of pregnancy termination procedures at present are performed in clinics (99% of the 10,000 in Queensland) very few are performed in public hospitals And so, many are not subsidised[14]
31. There appears to be lack of information and education about the accessibility of pregnancy terminations in public hospitals at present, which should be addressed should the second Bill be passed.
32. We also consider that for women from low socioeconomic groups, or from regional areas, accessibility to services may also pose a barrier to timely access to pregnancy terminations.
33. Access and equity issues, again featured in the Committee Public Hearings.[15]
34. Delays caused by accessibility and affordability of services ought not be a prohibiting factor if the law is changed, nor should it be a reason contributing to late gestation termination.
35. The second Bill appears to achieve a balance in relation to pregnancy terminations, it is our members view that if performed they:
    35.1. Be ethically carried out;
    35.2. Be carried out safely for women in a properly monitored environment; and
    35.3. Be carried out by properly trained and qualified experts.
36. The second Bill outlines who the procedures can be performed by, and maintains criminalisation where non-authorised person perform same.
37. In our submission on the first Bill, we submitted that:
    37.1. A medical oversight board be established;
    37.2. That board, based on medical knowledge, establish gestation periods at which

[14] https://www.parliament.qld.gov.au/documents/committees/HCDSDFVPC/2016/AbortionLR-WRC-AB2016/14-trns-2Aug%202016.pdf pages 36-38, accessed 3 October 2016
[15] https://www.parliament.qld.gov.au/documents/committees/HCDSDFVPC/2016/AbortionLR-WRC-AB2016/14-trns-2Aug%202016.pdf accessed 3 October 2016

pregnancy terminations be safely and properly undertaken;

37.3. That there be annual legislative review of the gestation periods recommended by the oversight board;

37.4. The board maintain a register of practitioners, clinics and hospitals undertaking pregnancy terminations;

37.5. The board review the qualifications and training of registered practitioners to ensure appropriately qualified personnel carry out pregnancy terminations; and

37.6. The board establish practices and procedures that are subject to regular review for conducting pregnancy terminations.

38. The evidence from the Committee Public Hearings on the first Bill establish that no clear answer or definitive response can be given by doctors on when resuscitation is acceptable, where a delivery occurs pre-term, and indeed, the President of the Royal Australian and New Zealand College of Obstetricians and Gynaecologists considered that the gestation point utilised in other states was adequate for pregnancy terminations, and that otherwise, resuscitation of is determined by appropriately qualified paediatric specialists and the parents on a case by case basis. [16]

39. Consistency with other states on gestation period is logical.

40. It seems a medical oversight board is not warranted under the second Bill, as the Bill provides for capacity for a second opinion the more advanced the pregnancy becomes (post 24 weeks) and the second Bill's inclusion of criminal penalty for a non-qualified health professional performing termination procedures also provides an additional safeguard negating the need for an oversight board.

Conscientious objection

41. We have no objection to a conscientious objection under the second Bill, however, as noted by the President of the Royal Australian and New Zealand College of Obstetricians and Gynaecologists,[17] women ought not be treated unfairly by having to locate a health practitioner willing to perform pregnancy termination procedures, and to have to suffer a later gestation period termination as a result, or forego same due to lack of assistance or referral.

42. We recommend that the consideration be given to amending the second Bill to impose an obligation on a doctor to advise the woman of health professionals who do perform procedures to avoid the consequence of a late termination (i.e. risk to the woman, ethical issues concerning late gestation termination procedures etc).

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[16] https://www.parliament.qld.gov.au/documents/committees/HCDSDFVPC/2016/AbortionLR-WRC-AB2016/14-trns-2Aug%202016.pdf accessed 3 October 2016

[17] https://www.parliament.qld.gov.au/documents/committees/HCDSDFVPC/2016/AbortionLR-WRC-AB2016/14-trns-2Aug%202016.pdf accessed 3 October 2016

43. This may be achieved by maintaining a state register of doctors who perform the procedures, which could easily be provided to women so that can fairly access medical services in a timely manner.

Language and use of the word "abortion"

44. The primary focus of our submission on the second Bill is in support of the Bill
45. However, consideration may be given to the removal of stigmatised language referring to "abortion" if enacted, however, such changes ought not prevent the second Bill from passing.

Exclusion Zone – 50 metres

46. In some other states, we note that the exclusion zone if 150 metres, which is more preferable, however, such changes ought not prevent the second Bill from passing.

Conclusion

47. We are happy to be involved in any additional consultation that may take place on this submission and the Bill, as well as later reviews of the Act and establishment of the surrounding infrastructure.

Sincerely,
Kylie Hillard

Spokesperson
Region of Soroptimist International of South Queensland

Enquiries to:
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