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Research Director
Health, Communities, Disability Services and
Domestic and Family Violence Prevention Committee
Parliament House
George Street
Brisbane Qld 4000

Re: *Health (Abortion Law Reform) Amendment Bill 2016*

Submission to The Health (Abortion Law Reform) Amendment Bill 2016 which was introduced by Cairns Independent MP Rob Pyne on 17 August 2016, and referred to the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee.

Submitted for your consideration by:

Wendy Francis
Qld State Director for the Australian Christian Lobby

Introduction

The Queensland government has an indisputable duty to protect the interests of women facing unplanned pregnancies and those of their babies. These interests are sometimes seen as conflicting: the woman's right to reproductive choice is often set in opposition to the baby's right to life. The debate is highly contentious and emotionally charged. Even if approached with the best will, unlimited resources and the most complete information, any legislative outcomes are unlikely to be entirely satisfactory for all parties involved in all cases. Precisely because the potential for tragic consequences and long-term suffering for the women, babies and families effected by public policy in this area is so great, it deserves to be approached with great sensitivity and rigorous logic. The legislation currently being proposed by Mr Pyne, the Independent MP for Cairns, demonstrates neither of these qualities. We believe it is profoundly flawed in its foundational premises and exposes pregnant women and their unborn babies to unacceptable risk.

ACL submits that this legislation should not be passed.

There are already grave deficiencies in the support offered to women facing unplanned pregnancies. While purporting to help these women, this bill ignores the very great weight of evidence that abortion harms women. Contrary to the claims of Mr Pyne, abortion is already easily accessible in Queensland. On the other hand, basic safeguards that might work to ensure women facing abortion decisions are informed about other options, that adequate support is available for them should they choose to keep their baby, or that they are making these choices when they are not in emotionally heightened states have not been implemented.

Abortion is accessible in Queensland under the current laws

The Queensland Maternity and Neonatal Clinical Guideline recognises that termination of pregnancy is lawful in Queensland where there is a serious risk to the woman's physical and/or mental health if the pregnancy continues.[1] According to the Guideline, hospitals are obliged to assess women presenting for termination to determine whether they are eligible for a procedure. When assessing the risk of harm, the medical practitioner may consider the social, medical and economic factors impacting on the woman's life and health. In addition, risk/s that may not be present at the time of assessment by the doctor but that could arise during the pregnancy or following the birth of a child can be considered.

At the present time and under this interpretation, a woman in Queensland can access an abortion at one of 10 private clinics. In response to a question on notice, the Hon C Dick, provided the statistics

[1] Queensland Maternity and Neonatal Clinical Guideline: Termination of Pregnancy, p. 7. Retrieved 15/09/16 from h[redacted]

from licenced private clinics and day surgeries in Queensland that offer abortion.[2] The number of abortions which take place in hospitals is not included in this figure. In the 10-year period from 2006-2015 there were 124,788 abortions reported (Figure 1 below). With over 10,000 abortions occurring in Queensland each year[3], it is disingenuous for abortion advocates and Mr Pyne to suggest that women in Queensland cannot readily access abortion in the State.

2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
12,387	13,232	13,996	14,302	14,330	12,744	11,432	11,630	11,756	10,963	10,403

Source: Queensland Hospital Admitted Patient Data Collection (QHAPDC), Statistical Services Branch, Department of Health, Queensland

(Figure 1: Abortions performed in Queensland clinics 2005–2015, excluding hospital abortions).

Abortion should never be regarded as a desirable procedure. Most Australians believe there are too many abortions.[4] When each and every abortion represents a woman in crisis, high abortion rates cannot be regarded as a victory for women. Everyone concerned to alleviate suffering would wish for fewer women to face circumstances in which they feel abortion is their best choice.

Does abortion harm women?

There are several potentially detrimental health outcomes for women who undergo abortions.This is supported by a great weight of detailed, peer-reviewed medical evidence. Medscape, an international internet resource for the use of doctors and health care professionals, provides a list of immediate post-abortion complications which includes:

- Complications of anesthesia
- Postabortion triad (i.e., pain, bleeding, low-grade fever)
- Hematometra
- Retained products of conception
- Uterine perforation
- Bowel and bladder injury
- Failed abortion
- Septic abortion (i.e. pelvic infection)
- Cervical shock
- Cervical laceration
- Disseminated intravascular coagulation (DIC).[5]

[2] Question on notice asked on 24 May 2016, data provided from Queensland Hospital Admitted Patient Data Collection (QHAPDC) Statistical Services Branch, Department of Health, Queensland.

[3] Figures for this are uncertain because accurate and consistent data collection is not implemented. Children By Choice note the lack of data in their submission and put the figure between 10,000 and 14,000 for last year. "Submission No. 794 Children By Choice to the Queensland Parliament", p. 5. Retrieved 16/09/16 from https://www.parliament.qld.gov.au/work-of-committees/committees/HCDSDFVPC/inquiries/current-inquiries/AbortionLR-WRC-AB2016

[4] [redacted]. Retrieved on 15/09/16.

[5] [redacted]. Retrieved 16/09/16.

The deVeber Institute for Bioethics and Social Research provides a most informative detailed study of various indices of women's health post-abortion which included the results show in Figure 2 below:

Suicide	Increased rate of suicide within twelve months of an abortion. Scandinavian women who aborted experienced a suicide rate of 34.9 per 1000, compared to a suicide rate of 5.9 per 1000 for women who delivered their babies. (This is a suicide rate nearly six times greater).
Mental health problems	They site a rigorously neutral study from New Zealand which notes a strong correlation between induced abortion and subsequent mental health problems. "By every measure, whether it is major depression, anxiety disorder, suicidal ideation, alcohol dependence, illicit drug dependence, or mean number of mental health problems, those who terminated their pregnancy by abortion suffered much higher rates of disorder than those who were never pregnant, and those who were pregnant but did not abort."
Hospitalization for psychiatric problems	Hospitalization for psychiatric problems was also more than four times greater in aborted women (5.2 per 1,000) compared with the control group (1.1 per 1,000).
Prematurity in subsequent pregnancies.	Induced abortion was associated with an 86% increased risk of very preterm birth (under 33 weeks' gestation) among women with previous first-trimester abortions, and a 267% increased risk among women with previous second-trimester abortions. Prematurity in turn is associated with an enormous increase in the risk of cerebral palsy and other health problems.
Problems relating to prematurity in subsequent pregnancies	Induced abortion was associated with an 86% increased risk of very preterm birth (under 33 weeks' gestation) among women with previous first-trimester abortions, and a 267% increased risk among women with previous second-trimester abortions. Prematurity in turn is associated with an enormous increase in the risk of cerebral palsy and other health problems.
Lower fertility after abortion	Women who have abortions experience 6% lower fertility than women who do not have abortions.
Pelvic inflammatory disease	Women with a history of induced abortion were found to be 3.15 times more likely than women without a history of induced abortion to be seropositive for the organism causing Pelvic Inflammatory Disease.
Increased risk of breast cancer	Out of 37 studies up to the year 2003 of the link between induced abortion and subsequent breast cancer, 23 showed a 30% increased risk of breast cancer for women who experienced induced abortion. [6] The fact that actuaries in the United Kingdom use abortion as the primary risk factor for breast cancer in insured clients further supports the view that the link

[6] h[redacted] Retrieved 16/09/16.

between abortion and increased risk of breast cancer is well-recognised outside the abortion industry.[7]

(Figure 2: Impacts of abortion on woman and their subsequent babies).

Cooling off periods

In the case of adoption, there is a mandatory period before which the adoption cannot take place. A parent cannot sign an Adoption Consent Form until at least 30 days after the birth of their child, and at least 14 days after information has been given and pre-consent counselling has been completed.[8] This cooling off period allows the parent(s) of the child time to consider and reflect upon their decision before proceeding. Similar safe-guards are in place for consumers. Anyone changing their energy provider or buying a home has a cooling off period in which to change their minds without penalty.[9] In glaring contrast, no such 'cooling off' period is stipulated for those considering the very grave and irreversible decision of whether to abort their baby. Given that there is widespread acceptance that these decisions are often undertaken in emotionally-charged circumstances and women report deeply conflicting emotions on the subject at the time, the contrast in legal protection for pregnant women and consumers here is unaccountable and illogical.

When do women choose abortion?

More persuasive then statistics is a growing body of testimony from women who retrospectively regret their abortion decision.[10] One of the consistent themes emerging from these narratives is the contention that these women didn't have a 'problem', they faced a situation that they could not handle on their own. [11] Rather than being offered support to help them navigate this difficult stage of their lives, they were faced with the 'choice' of proceeding with their pregnancy and raising their baby with minimal support, or a 'quick and easy' abortion.

[7] Rise Up Australia site a study which showed the overall increased risk of developing breast cancer after one abortion was 44% and a 76% increased risk after two abortions h[redacted]. Retrieved on 16/09/16.

[8] [redacted] Retrieved 14/09/16.

[9] The Queensland government web site states: "The standard contract for buying a home comes with a cooling-off period of 5 business days. This means if you're not totally happy, you can cancel the contract during this time." h[redacted] Retrieved 16/09/16.

[10] Less than 1% of abortions are performed on women who are the victims of rape. One study of 192 women who conceived as a result of sexual assault showed 78 per cent of the women who chose to abort (representing 30% of the total) regretted their decision. None of the 70% who continued their pregnancies regretted the decision. h[redacted] Retrieved 16/09/16.

[11] Emma's 'The Rest of the Story' (Part 2), h[redacted]. See also Melinda Tankard Reist, *Giving Sorrow Words: Women's Stories of Grief After Abortion*, 2007.

The majority of women and girls who have abortions do so because of a lack of support from partners, parents and friends. 70% of women say they felt they had no alternative to abortion.[12] Increasingly, 'pro-choice' is understood to be a misnomer, which only masquerades as an approach that supports women but in fact only offers one option.

Analysis of many of the issues surrounding abortion in Queensland is made problematic by inadequate reporting. Comparable figures for South Australia show that 66.8% of abortions performed are for women under the age of 30.[13] These young women are less likely to own their own home, have an established career, be financially independent or have established a relationship with a settled, life-long partner who can support them in bringing up a child. Only 32% of women who have abortions are married or in a de-facto relationship.[14] 65% of women seeking an abortion cite their partner's preference as a contributing factor to their decision.[15] It stands to reason that they are therefore most in need of extra-familial support when facing unplanned pregnancy and least able to contemplate proceeding with their pregnancy in the absence of this support.

In their submission to the Queensland Parliament concerning the previous Abortion Bill proposed by Mr Pyne, Children By Choice quoted a young woman who had chosen abortion, saying:

> *"We need to remember the real lives of women, not the propaganda. 'I don't think I should feel guilty for being young and vulnerable and not being able to cope with continuing a pregnancy,' says Jennifer. It's time not just to listen to her, but to really hear."*[16]

ACL would absolutely agree that these women need to be listened to and their problems heard. If being young and vulnerable means there are no alternatives to abortion for these young women then something needs to be done urgently to rectify this situation. We should be supporting them emotionally, practically and financially so that their circumstances are not so disproportionately onerous compared with those of older, more financially secure and consequently less vulnerable women. My Pyne's Bill would only tip the balance further away from such a hope, providing a one size fits all solution to the problem of unexpected pregnancy.

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[12] Selena Ewing, *Women and Abortion: An Evidence-Based Review*, Compiled for the Women's Forum Australia, 2005. p.3

[13] [redacted]. Retrieved on 15/09/16.

[14] https://www.emilysvoice.com/get-informed/abortion-facts/ Retrieved 16/09/16.

[15] Selena Ewing, *Women and Abortion: An Evidence-Based Review*, Compiled for the Women's Forum Australia, 2005. p.3

16 Rebecca Schiller "Women rarely regret their abortions. Why don't we believe them?" The Guardian, Retrieved from: https://www.theguardian.com/lifeandstyle/womens-blog/2015/jul/14/women-rarely-regret-abortions-us-study-uk-reproductive-rights

Problems with Mr Pyne's Bill

When we consider some of the support services that women considering abortions should receive and don't and then turn to an appraisal of Mr Pyne's Bill for abortion law reform, some significant failures are immediately apparent. Specifically, we would highlight the following problems with the bill. It:

- Allows women to perform abortions on themselves, without any of the support or counselling suggested above. This potentially exposes women to unwanted pressure to abort their babies. Quite apart from the medical risks to the woman herself, this would remove safeguards designed to ensure that abortion is genuinely the woman's choice and not the result of coercion.
- Allows for sex-selective abortions.
- Allows for late-term abortions of viable babies.
- Is inconsistent with Australia's undertakings to uphold International covenants regarding the Right to Life and Freedom of Religion.
- Potentially complicates the giving of medical advice to women by enforcing exclusion zones around any facility that provides abortions.
- Requires the Government and the Opposition to renege on pre-election commitments to leave the abortion law as it currently stands.

Allowing women to "perform an abortion on herself"

The case that Mr Pyne quotes as giving rise to his push for abortion law reform involves a young couple who obtained the illegal drug RU486 over the internet to procure an abortion. Mr Pyne's recommendation in this second bill that a woman should be allowed to "perform an abortion on herself"[17] represents irresponsible legislation, seeming to encourage women to take such important decisions without the benefit of medical counselling or oversight. Without any evidence to support such a claim, those who oppose Mr Pyne's bill have been accused of being responsible for 'backyard' abortions. Yet that is precisely what Mr Pyne's second bill would enable. Mr Pyne's bill would erode the protections currently enjoyed by women and unborn babies in Queensland, leaving them less supported than ever.

Sex-selective abortions and abortions for children with disabilities

Mr Pyne's bill proposes to implement radically liberal laws for abortion in Queensland similar to those introduced in Victoria in 2008. Abortion for reasons of sex-selection has already arisen as an issue in Victoria. In 2013, Dr Mark Hobart was referred for investigation by the Medical Board of Victoria and risked his career because he did not refer a couple who wanted to abort their healthy 19-week old girl

[17] QLD. Legislative Assembly. 17 August 2016, Health (Abortion Law Reform) Amendment Bill transcript, 015. p. 2890. Available at http://www.parliament.qld.gov.au/documents/hansard/2016/2016_08_17_WEEKLY.pdf.

foetus so they could 'try for a boy'.[18] The abortion of healthy babies appears to have arisen from a fundamental denial of the humanity of the baby upon which pro-abortion arguments rely. There is no reason to believe we would not face similar cases in Queensland, were this bill to be passed.

This bill also allows for abortions of children with disabilities. Acceptance of the idea that the life of a disabled child is not worthwhile takes us impossibly close to social engineering and blurs yet another ethical line.

Late-term Abortions

The practice of late-term abortion is particularly (and increasingly) difficult to defend ethically, both in terms of increased risks of harm to the mother (mentioned earlier), and the obvious viability of many aborted babies. With gestational periods to viability decreasing, and more premature babies surviving from what would once have been thought impossibly short gestations,[19] it is apparent that many babies that could survive independently of the mother are being killed. The information provided by the Health Minister was that 27 late term abortions in QLD resulted in a live birth in 2015.

Laws proceed from factual and logical physical realities as well as moral values. The law should convey consistency. Modern technology has brought us to an inconsistent situation that defies any basis in reason: in one room a child may be aborted and left to die at twenty-four weeks of age, in another room in the same Queensland hospital a whole team of specialists will work for countless hours and celebrate the survival of a child of equivalent age. The sole distinguishing factor between these two babies, is whether or not another human being desires the child to survive.

Arguments for lower gestational limits to abortion also ignores the very persuasive scientific evidence from the US on the subject of foetal pain capability. New approaches to abortion in the US, which specify a 20-week limit, are informed by over three decades of research by Kanwaljeet Anand, Professor of pediatrics, anesthesiology and neurobiology, which found that preterm babies, as young as 20 weeks, produce stress hormones and pain avoidance behaviours comparable to newborns.

> *"Anand's research was so broadly accepted it produced a new global standard in pediatric medicine. But when the research leapt the boundary of science into the politics of abortion, it was suddenly refuted by everyone from pro-abortion lobbyists to a working party of the British College of Obstetricians and Gynaecologists."*[20]

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[18] [redacted] Retrieved 16/09/16.

[19] Babies have survived and grown to healthy maturity with gestations as short as 21 weeks and 5 days. [redacted]. Retrieved 15/09/16.

[20] Jennifer Oriel, "Abortion laws must recognise scientific changes", *The Australian*, January 11, 2014. Retrieved 19/09/16 from http://www.theaustralian.com.au/opinion/abortion-laws-must-recognise-scientific-changes/story-e6frg6zo-1226799220817.

The debate which has sought to balance women's right to reproductive choice and the unborn baby's right to life and late term abortion has always been a particularly contentious area. Polls show that two-thirds of voters in Queensland (66%) believe that an unborn child at 20 weeks of pregnancy is a human person with human rights.[21] With 18 women undergoing termination post 28 weeks in Victoria between 2010 and 2011, one of whom was over 37 weeks gestation, we have to ask how women benefit from the termination of the lives of their unborn children at a stage when those children could be delivered and other services put in place to support the woman to either parent or not as she chooses. [22]

Mr Pyne's bill would allow abortion well beyond the gestational limits allowed in Europe (these are set out in Appendix A).

Human Rights Law

1. During the course of the inquiry proceedings, one of the Committee members noted that international human rights law appears to be cited as grounds for arguments both for and against abortion based. Several points might be made on this question:

    a. No global United Nations treaty contains the word 'abortion'. There is no direct reference to abortion and no 'right to abortion' can be inferred from the 'ordinary meaning' of the words of any such treaty.[23]
    b. It was the clear intention that State laws prohibiting abortion extant at the time of adoption of the relevant international covenants (which laws include the Queensland *Criminal Code*) were to remain unaffected by the covenants. This is not consistent with the proposition that a right to abortion is a human right.
    c. The references within international human rights treaties that are relevant are actually in support of the pro-life position. The following treaties are relevant:

        International Covenant on Civil and Political Rights 1966

        i. Article 6(1) *International Covenant on Civil and Political Rights 1966*, which provides 'every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.'[24]

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[21] Galaxy Research, *Abortion Study*, Prepared for the Australian Family Association, May 2016, p.5. Retrieved 16/09/2016 from http://www.family.org.au/reports/May_2016_Abortion_Galaxy_poll.pdf.
[22] America has implemented successful adoption support services that involve adoptive parents supporting pregnant women through their pregnancies so that the birth mother knows who will be bringing up her baby. See h[redacted] for more information. This approach meets the needs of the birth mother, the baby and of childless couples who desperately want to adopt.
[23] Roger Kiska and Piero A Tozzi, 'Evaluating Claims for a "Right to Abortion" under International Law' (Paper presented at the International Conference on Abortion and Mental Health, 22 March 2012).
[24] *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976).

ii. Furthermore, providing interpretive context for the foregoing provision, Article 6(2) contains the only reference to the existence of the unborn child: 'Sentence of death … shall not be carried out on pregnant women.'[25] This clause then acknowledges the existence of the child and places value on the life of that child. In its interpretive context,[26] the consequence of the provision, arguably, is to extend Article 6(1)'s protection of human life against arbitrary deprivation.

iii. Queensland is obliged to comply with such provisions pursuant to Article 50 of the ICCPR: 'The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.'

Convention on the Rights of the Child

iv. The (non-binding, but useful for interpretive purposes)[27] preamble to the *Convention on the Rights of the Child* (CRC) provides 'the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, *before as well as after birth*'.[28]

v. In this context, Article 6 of the CRC states 'every child has the inherent right to life…States Parties shall ensure…the survival and development of the child.' Again, within this context, it is arguably clear that the child referred to in Article 6, includes the unborn child referred to in the Preamble.

vi. This is also supported by the definition of child contained in the CRC, which provides a ceiling and not a floor: 'every human being below the age of eighteen years.'

On the foregoing there is good basis to assert that, rather than providing a right to abortion, international treaties do just the opposite, and should in fact protect life from conception.

d. Notwithstanding the foregoing, as has been asserted to the Inquiry, the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW Committee) and the Human Rights Committee (HRC), have in certain limited circumstances upheld complaints

[25] Ibid. See also Human Rights Committee, *General Comment No 36 - Article 6: The Right to Life,* 114th sess, UN Doc CCPR/C/GC/R.36 (14 July 2015).
[26] The *Vienna Convention on the Law of Treaties,* opened for signature 23 May 1969 (entered into force 27 January 1980) Article 31(2) states the rule of interpretation that, "The context … shall comprise … the text, including its preamble and annexures.'
[27] See footnote 5.
[28] *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).

against national abortion laws. These bodies, which exist under 'Optional Protocols', administer non-binding quasi-adjudicative processes that are not heard before judges.

Furthermore, as clarified by Article 6 of the San Jose Articles:

> *The Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW Committee) and other treaty monitoring bodies have directed governments to change their laws on abortion. These bodies have explicitly or implicitly interpreted the treaties to which they are subject as including a right to abortion.*
>
> *Treaty monitoring bodies have no authority, either under the treaties that created them or under general international law, to interpret these treaties in ways that create new state obligations or that alter the substance of the treaties.*
>
> *Accordingly, any such body that interprets a treaty to include a right to abortion acts beyond its authority and contrary to its mandate. Such ultra vires acts do not create any legal obligations for states parties to the treaty, nor should states accept them as contributing to the formation of new customary international law.*[29]

The interpretations of these Committees are not consistent with the provisions of the relevant treaties, as outlined under paragraphs (2)(a) to (c) above and extend beyond their terms.

Even if one were to accept such interpretations (which we do not), close analysis of the facts surrounding the complaints reveal the strictly limited circumstances underpinning these Views. Accordingly, they cannot be used to ground arguments that widespread access to abortion is supported by human rights law:

i. *L.M.R v Argentina*[30] (CEDAW Committee) – mentally impaired woman who sought an abortion after a suspected rape by her uncle.
ii. *L.C. v Peru*[31] (CEDAW Committee) woman impregnated by rape seeking abortion to allow surgery to prevent severe spinal cord injuries.

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[29] San Jose Articles, *San Jose Articles Abortion and the Unborn Child in International Law* (25 March 2011) <http://sanjosearticles.com/?page_id=2>.
[30] Human Rights Committee, Views Communication No. 1608/2007, 114th Sess, UN Doc CCPR/C/101/D/1608/2007 (25 May 2007) ('*L.M.R V Argentina*').
[31] Committee on the Elimination of Discrimination Against Women, Communication No. 22/2009, 5th Sess, CEDAW Doc C/50/D/22/2009 (17 October 2011) ('*L.C. v Peru*').

iii. *K.L. v Peru*[32] (HRC) abortion of an anencephalic baby.
iv. *Mellett v Ireland*[33] (HRC) foetus with trisomy 18 which would die in utero or shortly after birth.

Whilst we do not accept that the cited Views above reflect the provisions of the treaties, even if this were accepted, clearly the Views of these United Nations Committees cannot be cited, as many do, to support a permissive abortion regime, for example, such as that currently implemented in Victoria.

2. *Example of the Victorian Exclusion of Abortion from Human Rights Charter*
We also note that the section 48 of the Victorian *Charter of Human Rights and Responsibilities 2006* (Vic) states 'Nothing in this Charter affects any law applicable to abortion or child destruction....'[34] Why was the Victorian legislature moved to explicitly include a clarification that the Charter will not impact upon abortion? The implication must be that certain human rights would apply in the absence of a statutory displacement. Which human rights are at play? On the above analysis of international human rights instruments, these rights clearly include the child's right to life.

3. *The Relevance of Religious Freedom*
Another right that is enlivened by the practice of abortion is the right to religious freedom of those persons who may be called upon to assist in the provision of abortion services, and who may hold a religious objection to providing such assistance. In Victoria medical practitioners are required to provide the name of a doctor who will provide an abortion. The exclusion in the *Charter of Human Rights and Responsibilities 2006* (Vic) thus operates to remove their religious freedom rights as applied to these circumstances.

Exclusion zones

This bill has attempted to redress the glaring omission of Mr Pyne's first bill to offer protection to doctors or nurses to opt out of abortion procedures or advice for reasons of conscience. A problem remains, however, in the very specific stipulations relating to exclusion zones. The new bill, if passed, would prevent doctors, nurses or counsellors working in hospitals from speaking to their patients in any way that might dissuade them from proceeding with an abortion. This represents an untenable

[32] Human Rights Committee, Communication No 1153/2003, 85th sess, UN Doc CCPR/C/85/D/1153/2003 (22 November 2003) ('*K.L v Peru*').
[33] Human Rights Committee, Communication No 2324/2013, 116th sess, UN Doc CCPR/C/116/D/2324/2013 (9 June 2016) ('*Mellet v Ireland*').
[34] *Charter of Human Rights and Responsibilities 2006* (Vic)

limitation on their freedom of speech to the extent that their ability to offer the impartial advice required by the practice of their profession would be compromised.

Further, it contravenes the Code of conduct for Doctors in Australia, which states:

> *"Doctors have a duty to make the care of patients their first concern and to practise medicine safely and effectively. They must be ethical and trustworthy.*
>
> *Patients trust their doctors because they believe that, in addition to being competent, their doctor will not take advantage of them and will display qualities such as integrity, truthfulness, dependability and compassion. Patients also rely on their doctors to protect their confidentiality.*
>
> *Doctors have a responsibility to protect and promote the health of individuals and the community ... Good communication underpins every aspect of good medical practice."*[35]

My Pyne's proposed Bill introduces the possibility that women might proceed with abortion only because their medical advisors are unable to advise them freely of alternatives. This obviously places doctors, medical staff and counsellors in an untenable ethical position and exposes women and their unborn babies to the risk of proceeding on an irreversible course of action with incomplete advice. It cannot be supported on the basis of serving women's best interests.

Pre-election undertakings from both parties

Though the potential for political loss-of-face is perhaps the least compelling reason to leave the legislation as it stands – particularly when considered next to the ethical, moral and compassionate arguments considered above – it nevertheless forms another reason for this Bill not to succeed. During the Queensland election campaign in 2015, ACL put a question to the parties with regard to abortion.

Labor responded:	*"We have no intention to change the existing legislative provisions."*

[35] Medical Board of Australia, Good medical practice: a code of conduct for doctors in Australia, March 2014. Retrieved 15/09/16 from http:/medicalboard.gov.au/Codes-Guidelines-Policies.aspx, p. 5.

LNP responded:

"In Queensland, abortion is a crime however, section 282 of the Criminal Code provides a defence when the abortion was performed 'for the preservation of the mother's life'. Section 282 has been interpreted by the courts as applying where the termination is necessary to preserve the mother from serious danger to her life or her physical or mental health which the continuing of the pregnancy would entail; and such termination is not out of proportion to the danger to be averted. The Queensland Government has no plans to change or review the laws relating to abortion."

Passing this legislation now would therefore involve reneging on firm pre-election undertakings from both major parties. These statements clearly show a general understanding that the legislation as it works at the moment is not unduly oppressive or in urgent need of review.

Conclusion

Health risks to women:

There is an increasing body of evidence that abortion is not the 'easy fix' for women with unplanned pregnancies and is not free of a long-term cost to the women themselves. Research shows increased risk of suicide, mental health problems, depression, alcohol dependence, illicit drug dependence, hospitalisation for psychiatric problems, prematurity of subsequent pregnancies (and consequent complications for these babies that can flow from this, which include an increased risk of cerebral palsy), lower fertility, increased risk of pelvic inflammatory disease, and increased risk of breast cancer.

Viability of babies:

With advances in technology, better imagery of babies *in utero* and more profound understanding of foetal development, it becomes increasingly difficult to support the idea that these babies are not entirely human, entirely vulnerable, and entirely unprotected by the law as it now operates. We have decreasing gestational terms to viability. We have the possibility of operating on babies *in utero*. We have scientific proof that they can feel pain, hear voices and taste flavours. All of this makes the contention that abortion does not involve killing babies impossible to support.

Different approach in Europe:

This greater understanding of foetal development is reflected in more restricted access to abortion in European countries, with reduced gestational limits on abortion, mandatory counselling as well as cooling off periods.

Recommendations:

Mr Pyne proposes to alter Queensland law to allow abortion at any time without counselling and with potentially compromised (or even no) medical advice. It leaves women more exposed than ever to pressure to proceed with an abortion in the absence of other options. This Bill should not be passed.

Rather, the Queensland government should consider other methods to support women facing unplanned pregnancies. In the first instance, this would involve implementing better data collection to achieve visibility of the many and varied circumstances of these women and the problems they face. Consultation with women who have had abortions and understanding of those women who chose not to abort unplanned babies are other obvious areas for further research. Responsible public policy cannot be formed without consultation with those affected. The personal experience and insight these women have to offer would be invaluable in forming a holistic and responsible approach to help women with unplanned pregnancies. Counselling for women in crisis is another key area of opportunity for the Queensland Government in formulating health policy that supports pregnant women. Counselling is mandatory before parents can relinquish their baby for adoption in recognition of the grave and irrevocable nature of the decision. The same qualities attach to the abortion decision, which currently enjoys none of the same consideration.

Appendix A: Summary of Abortion Laws in Certain European Nations

Germany

Waiting Period of 3 days applicable regardless of when abortion is sought (including during first trimester).

Mandatory counselling required for women seeking abortion. Certificate of counselling must be presented to her doctor when requesting an abortion, the counselling having taken place not less than 3-days prior.

Abortion permitted (effectively) for any reason **up to 12 weeks** (first trimester).

Between 12 and 22 weeks available on grounds of *medical necessity* i.e. to prevent danger to mother's life or grave injury to her physical or mental health and if the danger cannot be reasonably averted in another way.

Germany's law on abortion was last amended **in 1995**.

The rate of abortion in Germany is 6.1/1,000 women.

Belgium

Waiting period of 6 days applicable after the first doctor's consultation, regardless of when abortion is sought (including first trimester).

Abortion permitted for any reason **up to 12 weeks** (first trimester).

After 12 weeks available on grounds of: *risk to life of the mother; severe, incurable foetal abnormality or illness*. **Two doctors** must confirm.

Doctor is required by law to inform patient of **alternatives** to abortion, and the **risks** of abortion.

Mandatory medical **follow-up** with doctor is required 3 weeks after abortion is performed.

Belgium's law on abortion was last amended **in 1990**.

The rate of abortion Belgium is 9.2/1,000 women.

France

Waiting period of one week is normally mandatory, but can be shortened if the circumstances require (i.e. close to 12 weeks).

Offer of **counselling** must be made to a woman seeking an abortion both before and after the procedure, with following options presented: marriage counselor, family planning counselor, or social services. These consultations are mandatory for minors.

Abortion permitted for any reason up to **12 weeks** (first trimester).

After 12 weeks only where a multidisciplinary team of two doctors, having consulted with their teams, determine that there is a serious risk to the health of the mother or incurable foetal illness or defect.

Doctor is required by law to inform patient of **alternatives** to abortion, and the **risks** of abortion.

France's law on abortion was last amended **in 1994**.

The rate of abortion in France is 17.4/1,000 women.

The Netherlands

Waiting period of 6 days applicable after the first doctor's consultation.

Doctor is required by law to inform patient of **alternatives** to abortion, and the **risks** of abortion.

Regulations state that abortions should be performed "only if the distress in which the woman finds herself leaves no other choice."

After "viability" (24 weeks) only on grounds of foetal abnormality that means the child will die shortly after birth or have a low chance of survival and dangers to the life of the mother.

The rate of abortion in The Netherlands is 9.7/1,000 women.

Denmark

Abortion permitted for any reason up to 12 weeks (first trimester).

After 12 weeks available on grounds of: risk to mother's health; rape or incest; mother incapable of caring for child; serious and unavoidable burden to the mother.

After "viability" (21 weeks) only on grounds of: risk to the life of the mother; serious foetal abnormality or illness.

The Abortion and Sterilisation Committee (constituted in each jurisdiction), comprised of 4 people, is responsible for determining some of these issues. Determinations must be by unanimous verdict (4 members).

The rate of abortion in Denmark is 15.2/1,000 women.

Switzerland

Mandatory counselling required for women seeking abortion.

Patients are informed of the **alternative** of adoption, and provided with a list of organisations which can help them.

Abortion permitted for any reason up to **12 weeks** (first trimester).

After 12 weeks available on grounds of "profound distress" to the woman where it can be shown that the distress increases as the pregnancy progresses.

Swiss law on abortion was last amended **in 2002**.

The rate of abortion in Switzerland is 6.4/1,000 women.

Poland

Abortion only permitted up to 12 weeks (first trimester) on narrow grounds: risk to life of the mother, incurable foetal abnormality or illness, rape and incest.

Finland

Abortion not permitted after 20 weeks.

Abortion may be sought up to 20 weeks on grounds of: risk to mother's life, considerable burden to mother, minor, rape or incest, severe illness or disability of the child.

The rate of abortion in Finland is 10.4/1,000 women.

Austria

Abortion permitted for any reason up to 12 weeks (first trimester).

After 12 weeks only permitted on the following grounds: life of the mother; mother is a minor; physical or mental impairment of the foetus, serious danger to health of the mother.

The rate of abortion in Austria is 1.4/1,000 women.

Norway

Abortion permitted for any reason up to 12 weeks (first trimester).

Between 12 and 18 weeks available on certain specific grounds, like unbearable burden on mother, rape, severe foetal abnormality etc.

After 18 weeks, “extraordinary grounds” are required – normally only where there is a threat to the life of the mother.

Doctor is required by law to inform patient of **risks** of abortion and **social support** available to her.

The rate of abortion in Norway is 16.2/1,000 women.

Sweden

Abortion permitted for any reason up to 18 weeks.

After 18 weeks, special reasons must be presented by application to the National Board of Health and Welfare (normally life/health of the mother and life/health of the foetus). Most such applications will not be permitted after viability (22 weeks)

The rate of abortion in Sweden is 20.8/1,000 women.

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