Submission for the Inquiry into Public Health (Childhood Vaccination and other legislation) Amendment Bill 2015

'Conscientious Objectors Won't Be Bribed or Coerced' is a grass-roots network of about 1000 people who object to the Australian Childhood Immunisation Schedule (not necessarily objecting to vaccines) and /or the diminution of civil liberties to accomplish government vaccination targets. Conscientious objectors choose not to comply with the vaccination schedule on:

- medical grounds (such as, medical reasons not covered the Medical Contraindications form IMMU11 e.g. adverse reaction/s experienced by a sibling, reduced ability to detoxify due MTHFR gene defect/s, eczema vaccitum),
- religious grounds (e.g. all vaccinations are cultured on animal and human tissue and blood products)
- personal (e.g. 'one size' does not fit all) or
- philosophical reasons (e.g. genetically modified or 'recombinant' vaccines).

Conscientious Objection

The right to conscientiously object to the immunisation schedule was first protected by the Commonwealth Child Care Payments Act 1997 and has received bipartisan political support ever since. The right to choice is supported by various international treaties, for example:

- The International Covenant on Civil and Political Rights (ICCPR) Article 18 protects the right to freedom of thought, conscience and religion. This implies that a belief - whether informed by religious doctrine, conscience or something different altogether – is to be protected under law.
  http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx

- The Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (DEAFIDBRB), Article 2, protects the right to freedom of thought, conscience and religion, constrains the State from engaging in discrimination on such a basis.
  http://www.un.org/documents/ga/res/36/a36r055.htm

Conscientious objectors were recognised in the New South Wales 'no jab no play' legislation effective 1 Jan 2014. In 2013, the Queensland inquiry into the Public Health Act- Exclusion of Unvaccinated Children from Childcare Amendment bill recommended that:

> *'Any such legislation should include provision for medical exemption and informed conscientious objection (philosophical religious or medical), with an emphasis on ensuring that parents are provided with education and information on immunisation'.*

However it appears that the proposed legislation wants to coerce parental compliance with the vaccination schedule by denying them needed childcare places and then promoting this as 'the government **enabling** the childcare centre to make a **choice**'; a distinction without a difference. (Perhaps later this 'choice' will be 'incentivised'). If the government cannot lawfully achieve this directly (as our Constitution (S51) does not allow civil conscription to a medical procedure), and needs to create an indirect and elaborate situation to manipulate parents to choose between a medical procedure (which carries the risk of injury and death), and sacrificing their livelihood, then this is **practical** or **effective compulsion**. 'Practical compulsion' as a legal concept was defined in British Medical Association v Commonwealth: http://www.austlii.edu.au/au/cases/cth/HCA/1949/44.html

While still meeting government vaccination requirements, Conscientious Objection to the vaccination schedule allows parents to………

- select vaccines based on risk, for example:
  - Indigenous parents may opt out of the extra dose for pneumococcal and extra vaccine of two doses for Hepatitis A when lifestyle does not place the children at risk.
  - a non- Hepatitis B carrying mother may choose not to vaccinate her child to a disease which she has no chance of passing on to her newborn
  - vaccinating children for routine childhood diseases (which rarely cause them a problem) to 'protect' adults. For example mumps may cause sterility in **men** and rubella in pregnant **women** may cause birth defects
  - rotavirus is generally a disease of poor hygiene associated with bottle fed babies. Breastfeeding almost negates that risk.
  - the disease is managed by another government program - e.g. Pap Screening is known to prevent >90% of cervical cancer when combined with surgery. The HPV vaccine (if proven to be effective) at best could only prevent 70% of cervical cancer. Pap screening will still be needed by vaccinated women and has no side-effects.
- alter the timing of the vaccines
  - to after 6 months of age when the blood-brain barrier is intact
  - to a time when the child is completely healthy (also a better immune response is achieved if the child is completely healthy when vaccinating). 'Catch-up' schedules are more congested and this may not be suitable if a child is recurrently ill.
  - to administer the vaccines separately to minimise the toxic load (e.g. aluminium) and burden to a child's immune & detoxification systems in a given day
- opt for their children to acquire natural immunity to diseases
- safeguard children from **the unknown vaccination schedule of the future**.

The Commonwealth Government states on its immunise.gov.au website that:

> *"The Commonwealth of Australia does not warrant or represent that the information contained on this site is accurate, current or complete. Users should exercise their own independent skill or judgement or seek professional advice before relying on it. The Commonwealth of Australia does not accept any legal liability or responsibility for any injury, loss or damage incurred by the use of, or reliance on, or interpretation of, the information contained on this site."* http://immunise.health.gov.au/…/publishi…/Content/copyright…

'Conscientious Objectors to the vaccination schedule have met both criteria of independent judgement and consulting a health professional by completing the Immunisation Conscientious Objection form IMMU12. By signing the form, the medical practitioner acknowledges the risks and benefits of vaccination have been **discussed** with the parent.

The Australian Immunisation Handbooks also states that vaccines are 'recommended' and as such not compulsory, and informed consent is not valid in the presence of coercion.

The bill is unreasonable

It is unreasonable to coerce a medical procedure which carries with it a risk of disability or death, when there is no reciprocal obligation on the government to make sure that adequate compensation is available. (Refer http://www.aph.gov.au/binaries/hansard/senate/dailys/ds111197.pdf

Regardless of how small the risk of individual vaccines is perceived to be by some, the interactive and cumulative effects of all the vaccines on the schedule have never been studied, let alone proven to be safe. There is comprehensive system for monitoring and recording vaccine uptake, however this is not matched with an equally detailed system for reporting adverse reactions. The approach is one of passive surveillance, voluntary reporting and denial (to protect the program) relying on the healthcare providers knowledge and experience of reporting adverse reactions (http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3751761/) to the various state health authorities, TGA or manufacturer. This muddle cannot easily detect 'hot lots' or vaccine failures. A study in 2010, by South Australian researchers, Gold, Dugdale, Woodman and McCaul, (http://www.sciencedirect.com/science/article/pii/S0264410X1000527X) demonstrates the feasibility of using the ACIR for data linkage and vaccine safety surveillance, unfortunately the political will seems to be missing.

As the Committee will be aware, the Commonwealth government aims to deny childcare payments to Conscientious Objectors. Now the Queensland government wishes add to this burden by denying the actual childcare to parents of children who are not 'fully vaccinated'. **A little over 20 years ago childhood vaccination was completely voluntary, vaccination rates were a low 35%** (ABS: 1995) and disease mortality and morbidity were also low (National Notifiable Diseases Surveillance System- NNDSS). Vaccines have since been included on the childhood schedule for sexually transmitted diseases (Hepatitis B, HPV) and to improve productivity (i.e. cost-benefit analysis of parents taking time off work to care for children with chicken pox). As childhood vaccination rates and the number of vaccines required to be 'fully vaccinated' have increased, so too have government reactions to media-driven fear campaigns. Where will this end? With children requiring vaccines to attend school, university or a public playground? Requiring proof of titre levels? All the while adding to the schedule, anti-smoking- or anti-diabetes- vaccines for example (Vaccines in development http://phrma.org/sites/default/files/pdf/Vaccines_2013.pdf); because they too are 'public health' issues. It is also unreasonable coerce compliance to the sight-unseen, unknown and untested vaccination schedule of the future.

Public health experts, who include Professor Raina Macintyre, A/Professor Julie Leask, and A/Professor Kristine Macartney, have publicly questioned the merits of coercive strategies to improve vaccination rates.
http://www.phrp.com.au/issues/march-2015-volume-25-issue-2/no-jab-no-pay-recommendation-raises-concerns/

1. Professor Raina Macintyre has argued that coercive vaccination policies, may backfire, by polarising immunisation-hesitant parents, or parents who selectively immunise, and convert them to immunisation objectors.
   https://theconversation.com/want-to-boost-vaccination-dont-punish-parents-build-their-trust-40094
   A child of a parent who is generally in favour of immunisation but who has an objection to only one particular vaccination will be disadvantaged to the same extent as one that is totally unvaccinated.

2. A/Professor Leask, is an outspoken critic of punitive, coercive vaccination policies, which she has claimed, are counter-productive. She strongly favours positive policies to remove structural barriers to vaccination up-take, tailored communication strategies, and professional development and engagement of vaccination providers. http://ses.library.usyd.edu.au/bitstream/2123/8960/2/Leask_Nature_accepted.pdf

In February of this year, a representative of peak body, Early Childhood Australia, stated their opposition to the Commonwealth 'no jab no pay' policy of coercing childhood vaccination.
http://www.theguardian.com/australia-news/2015/feb/22/backlash-against-calls-to-link-vaccination-to-childcare-benefits
It is also unreasonable to use childcare and early education centres as a puppet to increase vaccination rates.

Children who may be hepatitis B carriers cannot be excluded from childcare and school as this would constitute a violation of the Commonwealth Disability Discrimination Act (which includes the presence in the body at any future time of organisms which cause, or are capable of causing, illness or disease). It is inconsistent and unreasonable to exclude a healthy child who does not carry Hepatitis B simply because they haven't been immunised against the disease.

The bill is unnecessary

It is not necessary to remove a civil liberty and give it to childcare centres. Such an action would surely be in response to a public health emergency, or evidence (not just a hunch), that public health would improve. Any evidence would need to be so significant as to outweigh that:

1. we have the highest childhood vaccination rates in history at approximately 92% www.immunise.health.gov.au/internet/immunise/publishing.nsf/Content/acir-ann-cov-hist-data.htm
2. children's vaccine coverage rates were as low as 35% as recently as 1995 http://www.abs.gov.au/ausstats/abs@.nsf/mf/4813.0.55.001#4.%20RESULTS%20-%20VACCINATION%20COVERAGE
3. children only represent a small percentage of our total population, diluting any contribution they may make to herd immunity. And many adults will never have had some of the vaccines currently listed on the schedule.
4. natural immunity also contributes to the 'herd'

5. some diseases have herd immunity thresholds lower than 85% (eighty-five percent) http://www.bt.cdc.gov/agent/smallpox/training/overview/pdf/eradicationhistory.pdf page 17
6. not all diseases respond to the theory of herd immunity e.g. tetanus, hepatitis A & B
7. outbreak of diseases still occur in highly or fully vaccinated populations for example:
   a. Pertussis Infection in Fully Vaccinated Children in Day-Care Centers, Israel http://wwwnc.cdc.gov/eid/article/6/5/00-0512
   b. Measles Outbreak among Vaccinated High School Students -- Illinois http://www.cdc.gov/mmwr/preview/mmwrhtml/00000359.htm
   c. Closer to home, this year a pertussis outbreak in a north Brisbane childcare centre affecting at least 7 vaccinated children (as told by a parent at the centre, but unable to verify because Queensland Health were unwilling to provide that information)
8. it is not even theoretically possible for some vaccines to induce herd immunity. **The terms 'vaccine preventable' and 'herd immunity' are not synonymous,** for example toxoid vaccines such as diphtheria, tetanus and pertussis vaccines target the toxin or poison produced by the bacteria not the bacteria itself. They are 'personal' vaccines reducing the symptoms of the disease and are incapable of preventing infection, colonisation and transmission of the disease organism.
   a. A US-based Immunologist, Tetyana Obukhanych PhD, recently published an open letter to legislators, in which she identifies vaccines that are not capable of producing a herd immunity effect and are only capable of offering protection to individual vaccine recipients. These include the Inactivated Polio Vaccine (IPV), Tetanus, Diphtheria, Whooping Cough, HIB (via a shift in strain dominance under pressure from the vaccine), and Hepatitis B. http://thinkingmomsrevolution.com/an-open-letter-to-legislators-currently-considering-vaccine-legislation-from-tetyana-obukhanych-phd-in-immunology/

The proposed legislation is also unnecessary because 'education campaigns' have been proven to be more effective than coercive legislation. This is evidenced by comparing Queensland vaccination rates for 2013 to 2014 and contrasting them to the New South Wales vaccination rates for the same period. Queensland experienced an overall increase while NSW experienced an overall decrease.

The bill is unnecessary government overreach as Queensland Health already **specifies** which medical conditions require exclusion from school or childcare to prevent the spread of infectious diseases among staff and children. https://www.health.qld.gov.au/ph/documents/cdb/timeout_poster.pdf There is no evidence to extend these powers to exclude healthy, unvaccinated children based some murky sense of the greater good.

Human rights, discrimination and law

The proposed legislation affects four fundamental rights: to parent one's children; to refuse medical treatment; to practice one's religion and to attend school. These rights are:

- ratified in various international treaties, such as those listed on page 1 of this submission and the UN Convention on the Rights of a Child (CRC) - articles 2, 18 and 28
- and laid down in anti-discrimination laws such as the Commonwealth Disability Discrimination Act and the Queensland Anti-discrimination Act
    - Commonwealth Disability Discrimination Act - has been applied to unvaccinated children in Beattie v Maroochy Shire Council such that:

        'Although the children did not presently have any infectious illness, the fact that they had not been immunised against childhood illnesses meant they could, at some time in the future, contract such an illness and as such were subject to a 'disability' as required by the Act. Having established that the children were in fact suffering from a disability, the complaint that they were treated less favourably by the council on account of that disability prima facie amounted to unlawful discrimination." http://www.parliament.nsw.gov.au/prod/parlment/publications.nsf/0/70D1A2403572707ACA256ECF00180536/$File/OP06-97.pdf
    - Queensland Anti-discrimination Act lists disability, religion and race as attributes. Disability is clarified in the previous paragraph.

        Religion: Given the intangible and wide-ranging nature religion, not using vaccines may enact a religious belief. This is defined in two religions (Church of Christ, Scientist and Church of Conscious Living) but may encompass aspects of other religions. For example: vaccines contain fragments of a line of aborted foetal cells, are grown on animal tissue and serum and/or are tested on animals, which can conflict with Hindu, Buddhist, Jainist, Judaist, Christian, and Islamic. principles. This is another area of debate: http://www.ncbi.nlm.nih.gov/pubmed/23499565

        Race: Based solely on race, Aboriginal and Torres Strait Island children are 'recommended' to have three extra vaccine doses. (2x Hep A, 1 x pneumococcal)

Recommendations

1. Commence an education and media campaign against the misconception that whooping cough is preventable through herd immunity. Pertussis is endemic to Australia, with cyclical epidemics. The vaccine is a personal (not herd) vaccine, suppressing symptoms in the individual vaccinated but cannot prevent colonisation and transmission of the bacteria causing whooping cough, to immunised or unimmunised people. Adults, immunised or not, can develop a 'whoop-less' cough and misconceptions about the vaccine means the disease can be transmitted unwittingly. Good hygiene and isolation practices should be identified and encouraged as a means of reducing the spread of the disease to vulnerable infants.
2. To avoid the confusion evidenced in the Health Minister's explanatory notes that….

    '*refusing to allow the enrolment or attendance of a child at an approved education and care service based solely on the child's immunisation status could not be considered discriminatory. The Anti-Discrimination Act 1991 prohibits discrimination on the basis of a number of attributes, including disability or religious belief, (however immunisation status is not a recognised attribute*"……

    and because of the broad application of immunisation conscientious objection, our minority numbers and vilification incited upon us by mainstream media: **immunisation status or irrelevant medical record** (because it doesn't prevent the child from attending) **should become a recognised attribute** in the Queensland Anti-discrimination Act.

Conclusion

We acknowledge the ALP's policy in support of immunisation and desire to reach a performance criteria, but request that the Health and Ambulance Services Committee reject the proposed legislation or at least support the right to choose. It is not unreasonable to support choice; since introducing of the Immunise Australia Program, Australia has opted for a stance of 'compulsory choice'.