

Termination of Pregnancy (Live Births) Amendment Bill 2024

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01 May 2024

Committee Secretary
Health, Environment and Agriculture Committee
Parliament House
George Street
Brisbane QLD 4000
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Dear Sir/Madam,

Inquiry into the Termination of Pregnancy (Live Births) Amendment Bill 2024

The *Archdiocese of Brisbane* (AoB) provides this submission on behalf of the *Queensland Catholic Bishops*. The *Queensland Catholic Bishops* are comprised of the Archbishop of Brisbane, and the Bishops of the Diocese of Cairns, Diocese of Rockhampton, Diocese of Toowoomba, and Diocese of Townsville.

More than one in five Australians identify as Catholic. Here in Queensland 961,462 people identify as Catholic.¹ The Catholic Church and its agencies contribute in various ways across the spectrum of Australian society. As an integral part of its core mission, the Church seeks to assist people to experience the fullness of life. It is concerned with all that impacts on human dignity and wellbeing for the common good.

The *Queensland Catholic Bishops* seek to participate in public debate by making reasoned arguments that take account of a variety of perspectives and stimulate reflection by all people of goodwill, regardless of whether or not they hold a religious belief.

The *Queensland Catholic Bishops* make this submission to protect the most vulnerable in the community and being concerned to ensure there is care available for those women facing an abortion decision. We would like women to know there are alternatives and people who will help them to avoid an abortion, but there are also people who will help them with medical and other care afterwards if they ultimately have the abortion.

Many women throughout the history of the Church have dedicated their lives to the care and attention of mothers and babies who are at risk or who have been isolated. The legacy of courageous consecrated women and their allies lives on in the obstetric and paediatric excellence in services inspired by their work.

The *Queensland Catholic Bishops* and the Catholic community recognise that many women have been affected by abortion, whether their own or one experienced by a friend or family member. To those women, we wish to affirm that nothing said in this submission is meant to make you or others feel unwelcome or unloved. We acknowledge that there can be many reasons why you or a loved one came to be involved with abortion, many of which may not have been of your choosing. Many women are caught up in abortion without being fully informed or authentically free in their decisions. Nothing that any of us does can separate us from the love of

¹ 2021 Catholic Social Profiles. <https://ncpr.catholic.org.au/2021-diocesan-social-profiles/>

Christ, who always offers us all the compassion, mercy and restoration of the whole person that we need.² Pope Francis reminds us that “the Church does not exist to condemn people but to bring about an encounter with the visceral love of God’s mercy.”³

Introduction

The right to life is a fundamental human right. While disputed by some before birth, there can be no misunderstanding that children who are born have a fundamental right to life, to the protection of the state, to necessary medical assistance and to legal protection as detailed in the following extracts from key international human rights instruments:

- “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.” (International Covenant on Civil and Political Rights (ICCPR), article 6)⁴
- Article 4 of the ICCPR stipulates that no government can derogate from the right to life even in times of “public emergency” and Article 50 states that no federal state may put limits on any of the rights contained in the Covenant.⁵
- “Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.” (Article 24, ICCPR)⁶
- Governments should “ensure the provision of necessary medical assistance and health care to all children” (Article 24, Convention on the Rights of the Child).⁷
- “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” (Declaration on the Rights of the Child preamble).⁸

Failing to provide necessary medical or palliative care to children born alive is a human rights violation. The State Government has a duty under international law to ensure medical care is available to all born children.

Late-term abortions are not supported by the majority of the Australian public. Recent Australian polling found that “59% say it should be legal for any woman in the first 14 weeks, ... but only a [sic] 39% say it should be legal for any woman in the first 20 weeks.”⁹ The concern Australians have about late-term abortions contrasts

² Romans 8:35

³ Pope Francis, *The Name of God is Mercy*, London: Bluebird, 2016, p.50.

⁴ International Covenant on Civil and Political Rights, 16 December, 1966, Article 6, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

⁵ International Covenant on Civil and Political Rights, 16 December, 1966, Article 4, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

⁶ International Covenant on Civil and Political Rights, 16 December, 1966, Article 24, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

⁷ Convention on the Rights of the Child, 20 November, 1989, Article 24, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

⁸ Quoted in the Convention on the Rights of the Child, 20 November 1989, Preamble, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

⁹ Ipsos, ‘Seven in 10 Australians say that abortion should be legal in all or most cases’, 2022, Accessed 1 November 2022, <https://www.ipsos.com/en-au/seven-10-australians-say-abortion-should-be-legal-all-or-most-cases>

with the fact that such abortions are lawful until birth in some Australian jurisdictions, sometimes depending on approval processes.¹⁰

Response to the *Termination of Pregnancy (Live Births) Amendment Bill 2024*

It is tragic that the *Termination of Pregnancy (Live Births) Amendment Bill 2024* is even necessary to ensure that babies born alive following an abortion receive life-saving medical care or appropriate palliative care. The Catholic ethos considers any abortion decision a tragedy not only for the child but also for her or his mother and for society more widely.

The failure to provide appropriate medical or perinatal palliative care for a vulnerable infant, regardless of their circumstances or disability, is a gross injustice. The injustice is to the child, their mother and to all the people involved in the procedure because it is a failure to provide humane concern for another human being. The newly born and infants are the most vulnerable people in our society and deserve an investment in their care, comfort and treatment. Regardless of one's opinion about the morality of abortion, the neglect of children once delivered should be regarded as unethical, a human rights violation and a practice that is inimical to the dignity of the human person.

The current Queensland Health Guideline *Termination of Pregnancy* (the Guideline) states that when a baby is "born with signs of life", practitioners are to "provide care appropriate to the individual clinical circumstances and in accordance with best practice guidelines".¹¹ As stated in the Explanatory Notes, the Guideline is merely a guideline which is subject to change and not enforceable by law. It is this changeability that calls for the duty of the practitioner toward a baby born as a result of termination to be no different to the duty toward another baby born in circumstances other than a termination to be enshrined in law.

According to the Explanatory Notes, the amendment to the Bill will state that "any duty a participant in a person's birth to provide appropriate care to a baby born as a result of a termination of pregnancy procedure is not different than any duty they would have to a baby born in any other way."¹² Furthermore, the Bill will clarify that "appropriate care" means medical care and treatment that is clinically safe and appropriate to the baby's medical condition, while "participant in person's birth" clarifies that the subjects to whom this section applies are the registered health practitioner who performed the termination and any other practitioners, including students, present at the time of birth.¹³

This amendment would rightly ensure that health practitioners provide clinically appropriate palliative or medical care and treatment to an infant born alive. The infant, in being, is now clearly a member of the human community and therefore is owed the same recognition and protection owed to others.

We support the Bill as a just response to the deliberate and damaging neglect of babies born alive following an abortion. The "cancelling" of the humanity of a living infant is deeply harmful to medical and nursing staff and others in the clinical setting. The circumstances leading up to birth make a child no less human, no less precious and no less deserving of the care that other children would receive.

¹⁰ Marie Stopes, *Abortion Law in Australia*, 2022, Accessed 1 November 2022, <https://www.msiaustralia.org.au/abortion-law-in-australia/>

¹¹ *Termination of Pregnancy (Live Births) Amendment Bill 2024 Explanatory Notes*, 2024. <https://documents.parliament.qld.gov.au/tp/2024/5724T411-9FFD.pdf>, 2.

¹² Explanatory Notes, *Termination of Pregnancy (Live Births) Amendment Bill 2024 (Qld)* <https://documents.parliament.qld.gov.au/tp/2024/5724T411-9FFD.pdf>

¹³ Explanatory Notes, *Termination of Pregnancy (Live Births) Amendment Bill 2024 (Qld)* <https://documents.parliament.qld.gov.au/tp/2024/5724T411-9FFD.pdf>

In making these comments we affirm that “the dignity of a person must be recognised in every human being from conception to natural death.”¹⁴

Care for babies born alive and their mothers

Given that there is evidence that terminations of pregnancy leading to a child being born alive do occur in Queensland, ensuring mothers are aware of and have access to alternatives to care for their child is imperative.

One important type of care which should be made available to women considering a late-term abortion because of a prenatal screening result is perinatal palliative care. One perinatal palliative care program reported that over a 10-year period, 99 per cent of the families referred to them continued with the service.¹⁵ Perinatal palliative care can offer women, their husband or partner and families the hope to continue with the pregnancy because it demonstrates their child is loved and valued.¹⁶ This type of care can help families celebrate their child’s short life:

“When a pregnancy is complicated by a life-limiting fetal diagnosis, the remainder of the pregnancy is vastly different from what was hoped for and expected. The grieving process may start well before the family even meets the baby. Often, families seek opportunities to celebrate and honour the life of their child while simultaneously planning for the ongoing pregnancy and navigating decisions surrounding care of the newborn with a life-limiting condition.”¹⁷

This care is vital to help show women and their families that there is another pathway to respond to an adverse screening result and that they will have support.

The fact that not all children born as a result of an abortion would survive even if care were provided does not diminish the responsibility of healthcare professionals to attempt to sustain the life of a child. Babies can survive being born at gestational ages that were impossible even decades ago, with records of children born at 22 weeks surviving.¹⁸

Even in cases where a baby is not likely to survive, medical staff have a duty of care to the child and to the mother. No child should be abandoned and refused care simply because of the circumstances of their birth. Whether children surviving an abortion is a frequent event or not, children born alive should receive whatever medical care they need.

¹⁴ Instruction Dignitas Personae on Certain Bioethical Questions, 20 June 2008, #1.

¹⁵ Megan E Doherty, MD FRCPC, Liam Power, BSc, Robin Williams, MD FRCPC, Nahal Stoppels, RN BScN CHPCN(C), Lynn Grandmaison Dumond, RN(EC) MScN CHPCN(C), Experiences from the first 10 years of a perinatal palliative care program: A retrospective chart review, *Paediatrics & Child Health*, Volume 26, Issue 1, February 2021, Pages e11–e16

¹⁶ Tonti-Filippini, N (2013) *About Bioethics: Motherhood, Embodied Love and Culture*. Connor Court, Ballarat. Pages 61-63.

¹⁷ Cortezzo DE, Ellis K and Schlegel A (2020) Perinatal Palliative Care Birth Planning as Advance Care Planning. *Frontiers in Pediatrics*. 8:556.

¹⁸ Xuxin Chen, Tianyao Lu, Jeffrey Gould, Susan R. Hintz, Deirdre J. Lyell, Xiao Xu, Lillian Sie, Matthew Rysavy, Alexis S. Davis, Henry C. Lee, ‘Active Treatment of Infants Born at 22-25 Weeks of Gestation in California, 2011-2018’, *The Journal of Pediatrics*, 2022; 249, 67-74.

Conclusion

From the very beginning of their lives, every human being deserves our respect and love as part of a community where they are supported and protected. Regardless of the circumstances surrounding their birth, providing medical care for all human beings is a moral necessity.

In support of the provisions of the *Termination of Pregnancy (Live Births) Amendment Bill 2024*, and in light of the evidence that children who are born as a result of an abortion are being left to die, we support:

- All neonatal babies receiving life-saving medical care, or palliative care if they have a life-limiting condition, regardless of the circumstances of their birth.

We appeal to all Queenslanders of goodwill to ensure that all children receive their human right to life, to legal protection and to sufficient medical care.

We would be happy to answer any questions the Committee may have. We can be contacted via Cathy Uechtritz, Director Government Relations, Archdiocese of Brisbane, on 0400 188 127 or at uechtritz@bne.catholic.net.au.

Yours faithfully



MOST REV MARK COLERIDGE
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