

## Human Rights Bill 2018

Submission to:  
Committee Secretary - Legal Affairs and Community Safety Committee  
Parliament House, George Street, Brisbane QLD 4000  
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Background

Unborn Children's advocacy Network (UcaN) is a not-for-profit association that provides a platform for like-minded individuals and groups to promote respect and protection for human life – in particular for human beings from conception to birth.

Members are supportive of the prospect of all human beings having legal recognition for their inherent dignity and worth.

Human Rights Bill 2018 - Preamble

The Bill's preamble confirms the *'inherent dignity and worth of all human beings'*<sup>1</sup> and confirms *'the equal and inalienable human rights of all human beings.'*<sup>2</sup>

Further, it is confirmed that *'Human rights are essential in a democratic and inclusive society that respects the rule of law.'*<sup>3</sup>

Australia is a founding member of the United Nations<sup>4</sup> Provisions of this bill are consistent with our legally binding obligations<sup>5</sup> under signed and ratified United Nations Covenants and Conventions.<sup>6</sup>

This is further confirmed by way of the San Jose Articles<sup>7</sup> affirmed by human rights lawyers and advocates, scholars, elected officials, diplomats, and medical and international policy experts.

However, nowhere is there a 'right' to abortion under any International instrument or law.<sup>8</sup>

This Bill also confirms and supports other human rights confirmed under International Conventions and laws.<sup>9</sup>

Passage of this bill through parliament will enshrine the equal and inalienable human rights for all human beings.

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1 Human Rights Bill 2018 – Preamble pg .10 (3)

2 Human Rights Bill 2018 – Preamble pg .10 (4)

3 Human Rights Bill 2018 – Preamble pg .10 (5,6)

4 <http://www.un.org/depts/dhl/unms/australia.shtml>

5 Vienna Convention on the Law of Treaties: Article 29 – Territorial scope of treaties: Unless a different intention appears from the treaty or is otherwise established, a treaty is binding upon each party in respect of its entire territory. Pg.293

6 Convention of the Rights of the Child

7 [https://sanjosearticles.com/?page\\_id=2](https://sanjosearticles.com/?page_id=2)

8 [https://sanjosearticles.com/?page\\_id=2](https://sanjosearticles.com/?page_id=2) Article 5: There exists no right to abortion under international law, either by way of treaty obligation or under customary international law. No United Nations treaty can accurately be cited as establishing or recognizing a right to abortion.

9 Human Rights Bill 2018 – Part 2 Human Rights in Queensland Division 1 Preliminary 12 Human rights are in addition to other rights and freedoms (11 - 16)

As the journey of human life begins at conception, human beings in their earliest and most vulnerable stages will be protected.<sup>10 11</sup>

For these reasons, among others, we support passage of this bill. However . . .

### Conflict with existing Acts

The Attorney-General and Minister for Justice, Hon Yvette D'Ath, introduce this bill on 31<sup>st</sup> September 2018.

The Minister also introduced the Termination of Pregnancy Bill 2018 on 22<sup>nd</sup> August 2018, which has now been passed.

This second Bill, which effectively removes any and all human rights for human beings before birth would be incompatible with provisions of the Human Rights Bill 2018.

Therefore, it would be incumbent on the Minister under the Human Rights Bill 2018 to report to the Legislative Assembly declarations of incompatibility.<sup>12</sup> This Bill also binds all persons.<sup>13</sup>

Passage of the Human Rights Bill 2018 through parliament would concede that the Termination of Pregnancy Bill 2018 was incompatible and would be subject to repeal.

We find it particularly incredulous that the Attorney-General, holding a Bachelor of Laws and attaining a Graduate Diploma of Legal Practice from ANU, having introduced both Bills to parliament, would not be aware of the contradictions these Bills pose in law.

It is not functionally possible for both Bills to exist in-force concurrently.

### Closing Comments

Passage of the Termination of Pregnancy Bill 2108 effectively removed many of the rights now being put forward under the Human Rights Bill 2108.

These include: right to life and peaceful assembly, among others.

It is not possible for the Human Right Bill 2018 to pass through parliament with propriety while the Termination of Pregnancy Bill 2018 is still in-force.

These pieces of legislation are incompatible and cannot run concurrently.

The Termination of Pregnancy Act 2018 must be repealed before the Human Rights Bill 2018 can be enacted by parliament.

It would be incumbent on the Attorney-General on passage of the Human Rights Bill 2018 to comply with provisions of the Bill and report incompatibility to the Legislative Assembly.

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10 Human Rights Bill 2018 – Part 1 Preliminary Division 1 Introduction [3] Main objectives of the Act: (a) to protect and promote human rights;

11 Human Rights Bill 2018 – Part 2 Human Rights in Queensland Division 1 Preliminary [11] Who has human rights (1) All individuals in Queensland has human rights.

12 Human Rights Bill 2018 – Part 1 Preliminary Division 1 Introduction 4 How main objectives are primarily achieved: (h) providing for a Minister and a portfolio committee to report to the Legislative Assembly about declarations of incompatibility; and

13 Human Rights Bill 2018 – Part 1 Preliminary Division 1 Introduction 5 Act binds all persons: (1) This Act binds all persons, including the state and . . . .

To do otherwise, would only serve to make a mockery of Queensland law, be counter productive to 'respect for the law' and expose legislation to legal challenge.

First step forward is repeal of the Termination of Pregnancy Act 2018.

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For and on behalf UCaN

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