



Respect Life

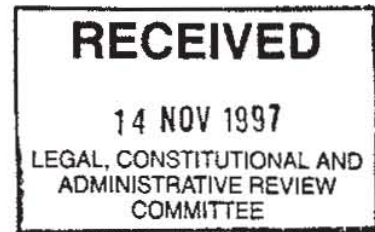
Queensland Right to Life

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Affiliated with
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The Australian Federation of
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13th November, 1997

The Research Director
Legal, Constitutional and
Administrative Review Committee
Parliament House,
Brisbane Qld 4000

Dear Sir,

SHOULD QUEENSLAND ADOPT A BILL OF RIGHTS?

As an organisation, we do not believe that a Bill of Rights is either necessary or helpful in protecting individual human rights and freedoms. We believe that if specific laws could be improved, it should be done incrementally by debate and discussion rather than the imposition of another set of "rights". A device such as a Bill of Rights, expressed as it must be in terms of absolute propositions, can only provide greater scope for legal conflict and uncertainty.

We believe that in general, our set of laws are sufficient basis upon which to operate and to improve upon as necessary by debate in Parliament.

ABORTION

However, with respect to the law relating to abortion, the current law has proved inadequate at least in practice to prevent an escalation in abortion and in the number of venues providing abortion. Should a Queensland law be more active in this area? We say "yes" because:

- 1) the unborn child is undeniably a human being and thus deserves respect and protection at least as much as that offered to born Queenslanders.

2) Recently, the Queensland Parliament passed legislation altering the Criminal Code S313 - "Killing Unborn Child" to read:

"Any person who unlawfully assaults a female pregnant with a child and destroys the life of, or does grievous bodily harm to, or transmits a serious disease to the child before its birth, commits a crime".

This law gives recognition to the unborn child as worthy of protection against a person or persons intent upon injuring them. Why should that not extend to an unborn child threatened by abortion?

3) Australia is a signatory to the United Nations Convention on the Rights of the Child. This puts Australia and by virtue of this, Queensland, in some obligation towards the principles of this Convention. The pre-amble states:

"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" (our emphasis). In Article 6, it says

1. States parties recognise that every child has the inherent right to life and
2. States parties shall ensure to the maximum extent possible the survival and development of the child.

Since "inherent" means existing as a permanent or characteristic attribute, it follows that the right to life of the child does not depend upon his or her age or stage of development but is theirs by virtue of being a child.

EARC

With respect to the EARC Bill of Rights, Cl 38 contains several phrases which are political statements for the pro-abortion position. They are:

"the right of the female to control her own fertility (cl 38 3(a) and
"the right to decide freely on the number and spacing of children and to have reasonable access to information, education and the means to enable the exercise of this right." (cl 38 3(b)

This is the usual expression used to make a claim for ready access to abortion as a means of "family planning" and "controlling one's fertility." As such we are emphatically opposed to such provisions. They are wrongly called "rights" because no-one has a right to demand directly or indirectly that they be able to kill an unborn child.

This also contradicts the first clause in "Civil and Political Rights" in the EARC bill stating that a person has a right to life liberty and security of the person. This also overlaps with the Convention on the Rights of the Child as previously mentioned.

Another issue of concern last time was that raised by Cl.15 on privacy. The examples listed in the EARC Bill were straight forward but the "right to privacy" has been one of the cornerstone arguments in the abortion debate in Northern America, derived from their constitution.

If exercised it could involve substantial conflict with other rights and the common good e.g. public health measures such as prevention of transmissible diseases by identification of carriers, vaccination and restrictions in regard to preparation of food, censorship, tracking criminal activity etc.

EUTHANASIA

Finally, on the issue of euthanasia, C. 29(3) mentions "the right to refuse any medical treatment". This can be taken to mean different things. The common law already provides for the right to refuse medical treatment. At the time of writing, the Queensland Power of Attorney Bill 1997 is before parliament, so it is too premature to say how that could affect Queensland in the future.

Aspects of concern in this area are :-

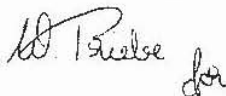
* Living wills/powers of attorney - can they legitimately be used to allow people to make advance directives concerning their health or life since these are usually made when the subject is well or at least not threatened by a serious illness and thus issued in relative ignorance.

* Although "active" euthanasia is properly seen as an offence against life, so-called "passive euthanasia" which is active euthanasia by neglect can be disguised as "refusing medical treatment".

* Will "medical treatment" be extended to mean adequate provision of food and water (as in the Tony Bland case) which can then be subject to debate in court, resulting in death by starvation to those with conditions such as PVS (persistent vegetative state)?

These are all issues which could be raised by a bill of rights. If there is no overreaching or supreme law by which provisions of a bill of rights needs to be understood, it will be used and interpreted in ways which will be adverse to the public good.

Yours sincerely



Dr Donna Purcell
State President