

**INQUIRY INTO CORRECTIONAL SERVICES
LEGISLATION AMENDMENT BILL 2006**

Organisation:

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Subject:

Summary

SUBMISSION TO: GENERAL PURPOSE STANDING COMMITTEE #3
FROM: Dr Eric Hinder
RE: CORRECTIONAL SERVICES LEGISLATION
AMENDMENT 2006 BILL

The debate in parliament allowed several members to raise serious concerns with regard to this bill and I was grateful for the opportunity to read the thoughtful contributions on the matter.

I wish to make the following points as a doctor who works full time for Justice Health . I must point out that the views I express are entirely my own and do not necessarily bear any resemblance to any official view of Justice Health.

The proper practise of medicine requires one to do one's best for all one's patients. This bill mitigates against that and officially approves conduct which is contradictory to most statements of medical ethics . It specifically contradicts the position of the AMA on doctors' duty of care with respect to prisoners regardless of their crime.

Prisoners frequently have limited education and great distrust of authority figures . The (substantial) Koori inmate population additionally have to contend with the alien world view that western medicine brings. If ill-informed inmates distrust the health service even more than they already do, they will delay presenting when serious conditions declare themselves . Outcomes will be worse for the patients and also more expensive for the taxpayer. The

inmate population will decide that society has declared that their health will not be protected by the system and will retreat further from engagement with health promotion..It is also worth remembering that fatherhood is valued more highly in some cultures than others and so the impact of this bill will differ according to different cultural backgrounds.

The bill opens the way for an additional sentence to be imposed on an inmate beyond their incarceration. The malignancy necessitating treatment which results in sterility may be regarded as an act of God, but its severity will be amplified by parliamentary whim, not by judicial consideration. It lays this small group open to a punishment which is “unusual” and for some /?many will be “cruel” as well - and potentially a torture of the mind via the body.

Given that such a high proportion of the inmate population is Koori, has there been consideration of the effect this will have on these inmates who fall under this legislation’s purview? Will we have a subgroup of Koori inmates with a 100% suicide in custody rate as a legacy of this legislation?

What will happen if someone falls under this bill’s control and subsequently has their conviction quashed? They will have been doubly punished, and one half of that double punishment will have been by the deliberate commission of an Act of Parliament. Is the legislature so confident of the capacity of court trials to determine the truth of a matter, and so confident of the Police Force’s integrity, that it believes that innocent people never go to gaol?

This bill implicitly denies the possibility of rehabilitation for those convicted of these indictable offenses. Many of these offenses are carried out by younger people who have only begun to grow up by the time they have served a year or two of their sentence. Nonetheless the possibility of a “normal family life” holds appeal for many of them, but this bill seeks to deny that possibility to a few, not on the basis of their crime and their sentence, but on the basis of their disease. It denies them one of the ways people picture a future for themselves. It adds a punishment by disease and places a normal treatment out of bounds because of their conviction. The bill in the public mind refers to male patients, but it will apply to females too. Female ovarian tissue has been removed, frozen, reimplanted after completion of chemotherapy and been active enough to produce a pregnancy. Will this bill deny these women any chance at motherhood too?

When treating prisoners the temptation is always to do less – less work for yourself, less work for health staff, less negotiation required with custodial staff and less work for them to do at both the coalface and at the managerial level. Prisoners cannot just see another doctor tomorrow – they pretty much have to take what the system offers or lump it. The doctor does not have too worry about whether the patient left wholly satisfied with their consultation, so the temptation is always to ask fewer questions, to look less hard, not to refer for a necessary but inconvenient test. This bill sends a “para” message that it is OK to pretend to look after the health needs of some prisoners, and it is the start of a slippery slope which media shock jocks would be only too happy to push the Government and Justice Health down.

I expect if the bill is carried there will be a significant loss of morale among doctors charged with caring for these difficult patients in difficult circumstances. Many country gaols are dependent on GPs visiting from nearby towns – it would not be surprising if some regarded this as either unethical to comply with, or an unacceptable intrusion by the law into good clinical practice – or both, and simply decided to withdraw from offering medical services in these gaols.

Finally I would ask you to consider what these proposals remind you of : while not truly comparable I would suggest that they are reminiscent of Nazi Germany, Ceaucescu's Romania and Pharaoh's Egypt at the time of the Exodus. The fact that it does this should make everyone think twice.

As much as all right thinking people will sympathise with the feelings of outrage that rightly motivate this bill, I believe its likely adverse consequences will far outweigh any benefit to be received from any temporary assuaging of that outrage.

Yours Faithfully

Dr Eric Hinder, MBBS

