Submission No 40

INQUIRY INTO REPRODUCTIVE HEALTH CARE REFORM BILL 2019

Organisation: Ambrose Centre for Religious Liberty

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Submission: Standing Committee on Social Issues

Of the NSW Legislative Council

Inquiry into *Reproductive Health Care Reform Bill 2019*

On behalf of the Ambrose Centre for Religious Liberty, I am very pleased to offer this brief submission for the consideration of the Standing Committee on Social Issues.

I am the founder and chairman of the Ambrose Centre for Religious Liberty (Ambrose Centre).

The Ambrose Centre is a human rights-oriented organisation; it is not, nor does it pretend to be a religious organisation. It is incorporated as a 'Not for Profit' organisation and engages in public activities of promoting, bringing to awareness, addressing meetings and related activities whereby existing or intending laws have a bearing on the fundamental human right of manifesting religious beliefs.

At the onset the Ambrose Centre for Religious Liberty does not object per se to the decriminalisation but rather how termination is regulated thereafter.

Although the Reproductive Health Care Reform Bill 2019 (the Bill) covers a range of conditions, this submission confines itself to four matters and a general comment.

The four matters are:

1. Section 5 relating to the term, "*not more than 22 weeks*"; and
2. Section 6, "the reference to 22 weeks" and subsection (1) (b); and
3. Section 8, 'Registered health practitioner with conscientious objection'; and
4. Lack of adequate definition in Schedule 1.

I now address each matter using the numbers above:

1. **Section 5 states**:

   "A person who is a medical practitioner may perform a termination on a person who is not more than 22 weeks pregnant".

The principal objection is that 22 weeks has been chosen, as I understand it, because it is the stage of pregnancy at which viability outside the mother's (woman's) womb is likely and secondly, because the Bill is based on the Queensland Act.

The issue is that apart from granting a right to abort at will, 22 weeks appears over generous and is in total disregard to the existence of life in the womb. There is a valid question to be asked, why is not the 22-week benchmark reduced to the 1st trimester, that is, 13 weeks. At 13 weeks the foetus has clear human form. The limbs are clear, the human head and eye sockets are obvious. There can be no doubt at that stage of gestation that a human life is in existence. It is no longer an embryo.

At 13 weeks the woman would be fully aware she is pregnant. Any anxiety or psychological concerns would have occurred by this point. If serious thought has developed for termination it would have occurred by this time. The woman's opportunity to consult a medical practitioner and discuss her concerns or wishes could be met and satisfied within this time frame.

There is a dual responsibility involved here. Society and medicine generally cannot be blinded merely by a one-sided argument that a woman only has a right. Future generational concerns also rest with society; cultural norms of respect for a woman's body would be maintained and a cultural underpinning to not disrespect life couple with an emerging human person is a worthy concept to behold.

Obviously lowering the benchmark to 13 weeks would be met with opposition. The lowering of the bench mark involves more than ideological factors and a demand for individual right. Community standards and respect for non-threatening foetal human development are shared values worthy of preservation.

It is a fair question to raise - why does 22 weeks offer a greater right for control over a woman's body than would 13 weeks?

2. **Section 6 would change to after 13 weeks if the above is successful.**

   As to sub-section 6 (1)(b), it remains as a serious question of medical ethics that a second medical practitioner is not required to examine the person seeking the termination.

   The second medical practitioner should be satisfied by personal observation and consultation with the person seeking the termination that all the elements stated at subsection 6 (2) are satisfied before concurring with the late termination.

3. **Section 8 Registered health practitioner and conscientious objection.**

   Subsection (1) refers to the person (the first person) asking the registered health practitioner to either perform a termination on another person or assist in the performance of a termination on another person or make a decision under section 6 whether a termination on another person should be performed or advise the first person about the performance of a termination on another person and …

   The reference to the person (the first person) throughout subsection 1 is mysterious, to say the least. If the said person is not identified then the person could be the partner, could be the neighbour, could be a parent or could be a medical practitioner.

   The clear message is that the said person is not the woman seeking the termination. Why can not this said person be identified?

   The second question is why should the registered health practitioner be required to answer any request from the said person? The Bill does not require the said person to provide written evidence that he or she can speak on behalf of the woman seeking a termination.

   The use of the mysterious referencing to ‘person’ in the Bill does not assist a proper understanding of the Bill. Nor does it do credit to the true intentions of the sponsor and co-sponsors of the Bill.

   Another issue under this head as is found at subsection (3). The contents of the subsection require a partial violation of the health practitioner’s conscience.

   The health practitioner who has a genuine conscientious belief that a termination in circumstances save for an emergency or a serious threat to the woman’s life in the absence of a termination, is wrong, should not be coerced by law to either facilitate or be a pathway for the termination. Referring a woman may be held by the health practitioner to be an act of facilitation or indirect participation in the termination. The requirement to put aside such a belief and subsequently defy the conscientious belief is not only unreasonable but coercive.

   A health practitioner with such a genuine conscientious belief offends no law by holding the belief. The belief is not irrational. It rests on a reasoned belief on the part of the health practitioner that termination is to deny life to an actual or emerging human life.

   I am aware that other jurisdictions quashed the right of refusal to refer on the ground of a conscientious belief. The other jurisdictions do not stand as an authorative dictate to what NSW must implement.

The important principle I submit which the Standing Committee might consider is the force of a genuine conscientious belief upon a person. The person following such a conscientious belief, in this case the registered health practitioner, does not seek to offend the law or deny a lawful service to the person. The health practitioner is simply requesting the right to follow the dictate of conscience. This health practitioner's belief can and should be respected as much as that of the person requesting the termination. It should not be a compulsion on the health practitioner to forgo a deep and genuine belief because the law demands this. The conscientious belief is not intended to harm, delay or deny the delivery of a lawful service. The person seeking the termination can access the service through other medical and or health practitioners. The service is not denied.

It can be argued, correctly I submit, that a referral does not require a performance or a direct participation in the termination. Nor would it, I accept, require the health practitioner to endorse or approve of the termination. That is not the heart of the matter.

There are two core issues involved. One is the genuine conscientious belief that it is wrong to be any kind of a facilitator or a pathway leading to an act which kills off life or emerging life.

The second is whether conscience should be respected, protected and be allowed to be exercised without notoriety. Conscience is universal not a home-grown commodity. It may be informed by religion or simply by rules of humanity; not to kill unless in self-defence.

4. I turn to Schedule 1 – Definition

It would appear transparent that the person seeking a termination is not referred to as 'the woman'. The reason for this may be obvious to some but escapes any purpose of which I can fathom.

In any event, whether the word person remain, or it is accepted by the Standing Committee that the term 'woman' be the corrective term, the lack of definition remains.

It is our submission that the person or woman should be clearly defined including the minimum of age. If the definition says, as does the Queensland Act, that a woman requesting a termination is defined as 'a woman of any age', then include it in Schedule 1. If this is the case, then medical ethics would clearly be challenged.

Would a medical practitioner agree to a termination if a person of 14 or 15 years of age request same? The Bill does not spell out a prohibition on such a request. Would

parental consent be required? Would the AMA demand parental consent be inserted in the Bill if the woman, in fact a child, requested the termination.

What if a medical practitioner who generally does not object to performing a termination, refuses to participate in a termination relating to the child? Is this objection protected and, if so, by what force of law?

The above thoughts are expressed within the tight time frame available.

I look forward to elucidating further on the above points if questioned by a member or members of the Standing Committee.

CLOSING COMMENT

I appreciate that the Inquiry has been hastily convened and given inadequate time to reflect deeply into the issues at hand.

Terminating a pregnancy involve very serious genuine beliefs held by a significant number in our community. The outrage that has been evident against the Bill is proof of the passion and depth of the belief. The astonishment felt by both supporters and opponents of the Bill at the haste in which it has been introduced and debated is real.

I ask the question whether it is within the capacity of the Standing Committee to recommend that due to the many complexities and consequences arising from the Bill that a full Inquiry by the Law Reform Commission is warranted.

Yours sincerely

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Ambrose Centre for Religious Liberty.