A.B.N. 92 115 589 225
PO Box 267
Hawthorn Victoria 3122
enquiries@womensforumaustralia.org
www.womensforumaustralia.org

26 October 2017

Mr Karl Holden
Research Director
Health, Communities, Disability Services
and Domestic and Family Violence Prevention Committee
Parliament House
George Street
Brisbane QLD 4000

Dear Mr Holden,

RE: Health (Abortion Law Reform) Amendment Bill 2016 – Further Information

On 26 October 2016, our Director of Research, Policy and Advocacy, Ms Rachael Wong, was invited to provide an oral submission to the Parliamentary Committee on the proposed *Health (Abortion Law Reform) Amendment Bill 2016*. During the course of her submission the Committee raised several questions that we consider warranted more detailed responses than the time available on the day would allow. We would now like to take this opportunity to provide further information in response to those questions that may be of assistance to the Committee finalising its report to the Queensland Parliament due on 17 February 2017.

Informed consent requirements

What are your thoughts on pre and post emotional counselling if a woman decides to have an abortion?

The risks of psychological harm, the fact that women who seek abortions often do so as a result of a myriad of pressures (see pages 7-8 of our submission on the *Abortion Law Reform (Women's Right to Choose) Amendment Bill 2016* (**previously provided**)), and the number of women who are already seeking pre and post-abortion counselling through crisis pregnancy clinics indicate that counselling is an important component of informed consent for women. This counselling should be provided prior to an abortion and as part of their mental health care plan after an abortion.

How will the opportunity to view ultrasounds assist in allowing women to have informed consent?

There is much anecdotal evidence of women being told by abortion providers, partners, family members and others that their foetus or unborn child is just a "bunch of cells" or a "blob of tissue". There is also anecdotal evidence women are not being provided with accurate information about the stages of development of their child, including not being offered the opportunity of an antenatal ultrasound. This misinformation and withholding of information does women no favours and contravenes their right to fully informed consent.

Information about foetal development including that which can be determined by ultrasound (e.g. the location and gestational age of a pregnancy) is relevant to a woman's decision to undergo an abortion and thus vital to her ability to give fully informed consent to the procedure.

Given that a woman's decision to abort is an important and often stressful one, the provision of complete and accurate information on the reality and status of her pregnancy and unborn child and the nature and consequences of abortion, is critical to her psychological and physical well-being. In particular, it reduces the risk that a woman may choose to have an abortion, only to discover later, with distressing psychological consequences, that her decision was not fully informed.

In 2009, the Health and Disability Commissioner in New Zealand ruled that the offering of an ultrasound to women seeking an abortion is required in line with the right to be fully informed, as "[i]n most circumstances, a reasonable consumer would expect to be told that she could view an ultrasound scan performed prior to an abortion if she wished to."[1]

We urge the Committee to recommend that all women considering an abortion be offered an ultrasound prior to undergoing the abortion.

What measures would you like to see in relation to cooling-off periods, counselling and right to know requirements?

We provided recommendations on informed consent requirements and information about other jurisdictions' approach to this issue at pages 9-10 of our submission on the *Abortion Law Reform (Women's Right to Choose) Amendment Bill 2016* (**previously provided**). Those recommendations apply also to the current bill.

Based on the approaches of the United States and multiple European countries, we recommended:

That the Queensland Government put in place legally mandated informed consent requirements and mandatory waiting periods for women considering an abortion, including:

- Prescribing the information to be provided to women when making their decision, including information about foetal development, the harms and risks of abortion and the full suite of alternative options;

- Offering women the opportunity to undergo an ultrasound prior to making a decision;

- Imposing a mandatory waiting period following the woman's first consultation with a doctor before the abortion may be performed, during which the woman must be provided access to counselling; and

- Requiring women to access unbiased and objective counselling, which is independent of abortion providers.

The mandatory provision of relevant, accurate and unbiased information to women, mandatory counselling and imposed waiting periods adhered to in other jurisdictions are clearly intended to have the

[1] Health and Disability Commissioner (2009) *Information about the right to view ultrasounds prior to abortion (09HDC00842)*: http://www.hdc.org.nz/decisions--case-notes/case-notes/information-about-right-to-view-ultrasound-scans-prior-to-abortion-(09hdc00842).

combined effect of allowing vulnerable women to stop and consider all the facts and options available to them when faced with an unplanned pregnancy.

We urge the Committee to recommend a similar framework to protect women and to ensure that they are best equipped to make an informed decision.

Data Collection

How do we collect accurate data while abortion remains subject to criminal penalties?

In New Zealand, abortion is only lawful under certain circumstances, including – like in Queensland – where continuance of the pregnancy would result in serious danger to the life, or physical or mental health, of the woman.[2] Abortion is not lawfully available 'on demand' for any reason at any time in New Zealand.

Despite abortion remaining subject to the criminal law outside the prescribed grounds, New Zealand has in place a comprehensive data collection system and consequently has some of the best abortion statistics in the world. This quantitative information has been essential when considering policies and practices in such a critical area of women's health.

Does your organisation have any suggestion on ways forward to collect appropriate data so regulators can make informed decisions?

Under the New Zealand *Contraception, Sterilisation and Abortion Act 1977*, every abortion has to be performed at a licensed clinic or hospital.[3] The abortion providers collect statistics anonymously from every abortion patient via a form called an "ASC4". The records are then sent to the Abortion Supervisory Committee who shares them with Statistics New Zealand.

This method of data collection enables comprehensive abortion statistics dating back to 1980, including: the annual number of abortions; the hospitals at which abortions are performed; the age and ethnic group of the women undergoing abortions; the number of previous live births and previous abortions those women have had; the gestation at which women are undergoing abortions; the reasons for abortion; the type of procedure used; any complications that arise; and whether contraception was being used at the time.[4]

We urge the Committee to recommend the implementation of a similar system that enables the collection of accurate and appropriate data around abortion practices so that any legislative reform around abortion is evidence based.

Sex selection

What is the evidence in relation to sex selection internationally?

Sex selective abortion is a well-known problem in China and India, where son-preference cultures have resulted in extremely skewed sex ratios. Sex discrimination carried out via abortion is well documented and

[2] *Crimes Act 1961*, ss182-187A.
[3] *Contraception, Sterilisation and Abortion Act 1977*, s 18.
[4] See for example the Report of the Abortion Supervisory Committee 2015: https://www.parliament.nz/resource/en-NZ/51DBHOH_PAP67746_1/cec76cda393c1bca75b50936d1c78a32b4f25dab.

has resulted in millions of "missing" girls in some societies.[5] The number of girls and women missing from the global population is estimated to be more than 160 million, with sex selection being a major culprit.[6] The practice of sex selection has been widely condemned.[7]

Has gender selection happened in this country?

There is also evidence that sex selective abortions are taking place in Australia. Take for example, the high profile case of Dr Mark Hobart who refused to perform a sex-selective abortion in Victoria,[8] or the investigation by SBS that found a higher number of boys than girls being born in some ethnic communities in Australia.[9] On 7 February 2017, ABC Lateline ran a segment on Australian women who are using, or who want to use, IVF to choose the sex of their children.[10] That such women might also seek abortions on the same basis is not difficult to conceive.

What are your organisation's thoughts on the possibility of gender selection coming about because of this proposed legislation?

In a system where abortion is available on demand, at any time, for any reason, there is no protection against antenatal sex discrimination. There may be instances of sex selection where girls are preferred over boys as the ABC Lateline story revealed. However, amongst son-preference cultures residing in Australia, it is by and large females who stand to bear the brunt of discrimination, in keeping with international trends.

We urge the Committee to recommend that abortion not be made available on demand, at any time, for any reason (i.e. removed from the Criminal Code), so as not to legitimise further discrimination against women and girls.

Adoption

What adoption reform is necessary in relation to progressing real alternatives for women?

In March 2016 we provided a comprehensive submission to the Queensland Government's Review of Operation of the *Adoption Act 2009 (Qld).* This submission was based on our comprehensive, evidence-based research report *Adoption Rethink*, released in 2014. Several of our recommendations contained within that submission were focused on achieving adoption reforms that will result in real alternatives for women facing a difficult or unplanned pregnancy. These included:

---

[5] Hvistendahl, M., 2011, Unnatural Selection: Choosing Boys Over Girls and the Consequences of a World Full of Men, Public Affairs Publishing. See also: "It's a girl": http://www.itsagirlmovie.com; The Economist, "The War on Baby Girls", 4 March 2010: http://www.economist.com/node/15606229; United Nations Population Fund, "Gender-Biased Sex Selection": http://www.unfpa.org/gender-biased-sex-selection.

[6] Above n5, Hvistendahl.

[7] See for example: Agreed Conclusions on the Elimination of All Forms of Discrimination and Violence Against the Girl Child, Commission on the Status of Women, 51st Session (26 February – 9 March 2007), resolving that we should, "Eliminate all forms of discrimination against the girl child and the root causes of son preference, which results in harmful and unethical practices regarding female infanticide and prenatal sex selection, which may have significant repercussions for society as a whole.": http://www.unwomen.org/~/media/headquarters/attachments/sections/csw/51/csw51_e_final.pdf.

[8] Devine, M., "Doctor risks his career after refusing abortion referral", 5 October 2013: http://www.heraldsun.com.au/news/opinion/doctor-risks-his-career-after-refusing-abortion-referral/news-story/a37067e66ed4f8d9a07ec9cb6fd28cf5.

[9] SBS, "Could gender-selective abortions be happening in Australia?", 28 August 2015: http://www.sbs.com.au/news/article/2015/08/17/could-gender-selective-abortions-be-happening-australia.

[10] Miller, B., "Women using IVF to choose the sex of their children break silence on 'gender disappointment'", 7 February 2016: http://www.abc.net.au/news/2017-02-07/women-using-ivf-to-choose-sex-of-their-babies/8234798.

- Enable adoption orders to be commenced (and if reasonable in the given case, finalised) while the baby is still *in utero*, provided that the birth parent has the ability to withdraw consent for a reasonable period (say, 30 days) after the birth. During the waiting period *postpartum*, every effort should be made to place the child with one carer only.

- Ensure that, in practice, birth parents are given the ability to specify characteristics of adoptive parents including ethnic, cultural and religious characteristics as well as gender and domestic situation.

- Develop a national best-practice approach to adoption and ensure that it is implemented in legislation and policy in each jurisdiction across Australia. This is imperative to ensure that every child in Australia has the same access to a stable, permanent home regardless of the state in which they live.

- Initiate the process for Australian states and territories to develop a National Adoption Register, which, in addition to matching children already born with prospective adoptive parents, could also facilitate the matching of the unborn children with adoptive parents in situations where the birth parents are unable or unwilling to parent their own child.

- Review Queensland's current service delivery model for adoption, and consider moving to a more outsourced model. This may help to increase the availability of adoption as an option in cases where it is appropriate.

- Introduce more comprehensive professional development, education and training of social workers throughout Australia, including at an undergraduate degree level. Study should be based on best practice informed by evidence.

- Consider ways in which it can promote and generate more independent, evidence based research on adoption to inform policy and adoption practices. Establishing an Institute of Open Adoption, similar to the NSW Government's initiative, would be one way of ensuring more high quality and independent research is carried out.

We consider these recommendations if implemented would enable adoption to become a realistic and positive alternative for many women who are considering an abortion.

Conclusion

We acknowledge that the issue of abortion is a complex one and there are diverse and nuanced views held within the community about whether it should be readily available to women. However, based on extensive qualitative and quantitative evidence we reject the notion that abortion is a decision with no immediate or long-term consequences for women and their physical, psychological and emotional health. We consider there is inadequate information currently provided to women about the risks posed by abortion and the real alternatives that exist. We also suggest that considerably more should be done to understand and address the many serious causes that may lead a woman to seek an abortion including lack of family support, domestic violence, difficult and discriminatory workplace conditions, hostile community attitudes and inadequate government and community support for single-parent and low-income families.

Abortion on demand for any reason up until full-term is a radical departure from the current framework that exists in Queensland. We urge the Committee to take this opportunity to recommend an alternative legislative and policy framework that will really address the challenges women face in the home, the workplace and the community. If these challenges were appropriately addressed, many women would avoid having to undergo a traumatic and invasive procedure that carries significant risks both in the immediate and longer-term and potentially would have the opportunity to experience the joys and sorrows, the challenges and the victories that motherhood brings.

Kristan Dooley
Managing Director