Queensland Law Reform Commission

Review of Termination of Pregnancy Laws

Women's Bioethics Alliance

The Secretary

Queensland Law Reform Commission

PO Box 13312

George Street Post Shop QLD 4003

lawreform.commission@justice.qld.gov.au

February 13th 2018

To the Secretary,

We thank you for this opportunity to contribute to this important review.

We are a group of women who are concerned with critiquing the exploitation and abuse of women's bodies through medical practice. In this regard we are vitally interested in how abortion impacts upon our lives, and we are particularly conscious of the circumstances which compel so many women to decide on abortion.

We have four major concerns regarding the discussion paper.

1. **The proposed changes to the legal status of abortion are unlikely to be of any assistance to women but simply make it easier for health professionals and private practices to provide TOP.** Experience in Victoria shows that legal reform does not change practice but simply clarifies the law for providers.[1]
2. **Women seek abortion because of intimate partner violence, financial difficulties, relationship dysfunction, mental illness, sexual exploitation, difficulties coping with family life, and other reasons.** The desperate circumstances driving women to obtain TOP have not been considered and addressed in any way in the discussion paper. In the academic literature, accessibility and affordability of TOP are a concern; for example bulk-billed TOP

[1] Keogh LA, Newton D, Bayly C, McNamee K, Hardiman A, Webster A and Bismark M (2017). Intended and unintended consequences of abortion law reform: perspectives of abortion experts in Victoria, Australia. *J Fam Plann Reprod Health Care* 43:18-24.

ensures that "choice of termination is a personal rather than a financial one",[2] but it is already known that women often choose TOP if they cannot afford to raise a child, and disadvantaged women are more likely to choose TOP.[3] We are disappointed that this review does not consider women's issues central to termination decisions, such as employment, housing affordability, welfare, childcare, violence, and mental health.

3. **The legal reform aims to treat TOP just like any other medical procedure**. In fact, women's own stories and a large body of research demonstrates that abortion is an extremely difficult decision with lasting consequences of grief and distress for some women. The low participation rates in abortion research in Australia are an intimation of this (for example, of 59 women who initially agreed to be contacted after their medication TOP, only 18 participated, in an Australian study[4]. And in another Australian study, only 23.5% of women responded to the survey.[5]). Women are not helped by healthcare professionals and policymakers downplaying the gravity of a decision to terminate.
4. **Clinical standards may be lowered to increase uptake of abortion** without solid evidence that there is unmet demand, and without evidence that women's health will not be compromised. This is worrying and we hope the Committee will be mindful of this while considering the legal and practical elements of abortion in Queensland.

Q-1 Who should be permitted to perform, or assist in performing, lawful terminations of pregnancy?

- **We caution against reducing the standard of care to expand access,** noting concerns about the sustainability of the workforce that is providing TOP as shown by research in both Victoria (Keogh et al 2017) and New South Wales (Dawson et al 2017). There are sometimes suggestions to shift the task of abortion to nurses or midwives because many doctors are unwilling to offer abortion services. We do not see enough evidence to support this shift, and we also note a lack of evidence of unmet demand, especially among vulnerable women who are the target group for increasing uptake.[6] Most abortions are accessed through private providers in Queensland and for some providers abortion is a profitable business, while even not-for-profit providers have an interest in increasing their business to secure funding. There may be a conflict of interest in these professionals and organisations lobbying for decriminalisation and increased access.
- **Medical TOP is not an appropriate solution to the low uptake of abortion for women in regional and remote areas**. It is difficult to see why women in regional and remote areas are considered safe candidates for MTOP when it is necessary for them to have a follow-up visit,

[2] Downing SG, Cashman C and Russell DP (2017). Ten years on: a review of medical termination of pregnancy performed in a sexual health clinic. *Sexual Health* 14:208-212.
[3] Taft AJ and Watson LF (2007). Termination of pregnancy: associations with partner violence and other factors in a national cohort of young Australian women. *Aust N Z J Public Health* April 31(2):135-142.
[4] Hulme-Chambers A, Temple-Smith M, Davidson A, Coelli L, Orr C and Tomney JE (2018). Australian women's experiences of a rural medical termination of pregnancy service: a qualitative study. *Sexual and Reproductive Healthcare* 15:23-27.
[5] Shankar M, Black KI, Goldstone P, Hussainy S, Mazza D, Petersen K, Lucke J and Taft A (2017). Access, equity and costs of induced abortion services in Australia: a cross-sectional study. *Aust NZJ Public Health* 41(3):309-371.
[6] Dawson A, Bateson D, Estoesta J and Sullivan E (2016). Towards comprehensive service delivery in high income countries: insights for improving universal access to abortion in Australia. *BMC Health Services Research* 16:612.

and when emergency services and surgical abortion should be available in the event of method failure or adverse outcomes. We note that in one large retrospective observational study in Cairns (n=1712), for 29.3% of women the outcome was unknown after their MTOP.[7] In a retrospective analysis of 15 008 women receiving early medical abortion, around 13% were lost to follow up.[8] Women of low socio-economic status appear to be more likely to be lost to follow up.[9] This is concerning and it calls into question whether the standard of care is as high as for other medical procedures.

Q-13 Should there be any requirements in relation to offering counselling for the woman?

- **TOP decisions are difficult and distressing:** In a recent Australian study the major challenge identified by women obtaining TOP was *deciding whether or not to undergo an abortion*.[10] This suggests that independent counselling, sensitively and respectfully offered free of charge, might be welcome for many women.
- **Screening for and assisting survivors of intimate partner violence:** We note that there was no discussion of the high incidence of intimate partner violence among women seeking abortion. Clinics should be required to provide information about counselling, legal, financial and material assistance for intimate partner violence. Screening programs should be investigated for feasibility and acceptability.
- **Vulnerable women:** There are many instances of women being coerced into abortion, particularly those brought there by an older male (sometimes a pimp, sometimes a relative, sometimes by their abuser). We hope that abortion providers are sensitive to these possibilities and have policies in place to identify and assist these vulnerable women.
- **Teenage girls** have unique circumstances and should be given particular attention, particularly regarding the possibility of sexual exploitation. We hope that there will be mandated appropriate responses to teenage girls seeking abortion, beyond the simple provision of abortion and long-acting reversible contraceptives which will simply allow them to continue to be sexually available to men.
- **Conflict of interest:** We are pleased to see the discussion paper acknowledging that counselling *must* be provided independent from the provider of abortion.
- **Established risk factors**: Research has established risk factors for regret and grief after TOP, and these risk factors should be flags for women who need counselling or extra support. These include women who are ambivalent about their decision, women with pre-existing mental illness, and women who have very little support.

Q-2: Should a woman be criminally responsible for the termination of her own pregnancy?

[7] Downing SG, Cashman C and Russell DP (2017). Ten years on: a review of medical termination of pregnancy performed in a sexual health clinic. *Sexual Health* 14:208-212.
[8] Goldstone P, Walker C and Hawtin K. (2017). Efficacy and safety of mifepristone-buccal misoprostol for early medical abortion in an Australian clinial setting. *Aust NZJ Obstet Gynaecol* 57:366-371.
[9] Gatter M, Cleland K and Nucatola DL (2015). Efficacy and safety of medical abortion using mifepristone and buccal misoprostol through 63 days. *Contraception* 91:269-273.
[10] Shankar M, Black KI, Goldstone P, Hussainy S, Mazza D, Petersen K, Lucke J and Taft A (2017). Access, equity and costs of induced abortion services in Australia: a cross-sectional study. *Aust NZJ Public Health* 41(3):309-371.

- **We recommend that women not be criminalised for seeking or obtaining termination of pregnancy.**
- We do, however, recommend that women seeking or obtaining TOP be regarded as **potentially experiencing a crisis** and needing support of some kind in many diverse ways, and a support system should be put into place regarding finances, relationships, mental health, IPV, and so on according to each women's individual needs. Returning home after a termination, that woman's situation remains the same unless she is given support or assistance. TOP services are uniquely placed to identify women in crisis and assist or refer to other services.

Q-5: Should there be a specific ground or grounds for a lawful termination of pregnancy?

Most advocates for abortion state that the grounds for termination should simply be a woman's request and informed consent. However we urge caution in this approach this for several reasons:

- **Violence and abuse:** sometimes a woman has been coerced into requesting abortion, either by a controlling partner, or pimp. Intimate partner violence, for example, is a common experience for women who attend abortion clinics; in Australia it is one of the main reasons women seek abortion.[11] We are concerned that by making TOP quicker and easier to obtain, these girls and women may be pushed through the system unnoticed and unassisted.
- **Sexism and misogyny:** Abortions to eliminate girl children must be made illegal. We note that in many cultural communities, son preference generates demand for ultrasound and abortion of female foetuses. We strongly oppose this practice.
- **Ableism:** We also strongly oppose the use of abortion to eliminate individuals with disability or severe illness. Rather we urge more support for women who are raising children with special needs, and the addressing of ableist attitudes within the medical and broader communities.

Q-20 Should there be mandatory reporting of anonymised data about terminations of pregnancy in Queensland?

- **We support the introduction of mandatory reporting of anonymised data about terminations of pregnancy.**
- **Complications and adverse events must be reported to improve care for women.**
- **It is vital to monitor the impact on women's reproductive lives of social and economic trends like violence, unemployment, poverty, housing affordability, relationship breakdown, and mental illness.** All these are factors in women's abortion decisions. Abortion is a symptom of grave difficulties in women's lives and can be used as a marker

[11] Cooke D. (2007) Abortion linked to domestic violence, study finds. The Age April 7. Accessed at <https://www.theage.com.au/news/national/abortion-linked-to-domestic-violence-study-finds/2007/04/06/1175366479425.html> Children by Choice said last year that about one third of their clients are abused women. Uibu K (2017). Abortion laws making it harder for women to escape domestic violence, expert warns. ABC News 21st June. Accessed at <http://www.abc.net.au/news/2017-06-21/abortion-laws-force-abused-women-to-stay-with-perpetrators/8451772>

to identify where women need assistance, whether broadly via policy and public funding, or privately by social and financial support.

Thank you for the opportunity to contribute to this public discussion on termination of pregnancy.

Yours sincerely

Selena Ewing

Coordinator

Women's Bioethics Alliance

selena@selenaewing.com

www.facebook.com/WomensBioethicsAlliance/