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Health Insurance Amendment (Medicare Funding for Certain Types of Abortion) Bill 2013 and related Inquiry

Submission by

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Background

The Mission of the Office for Justice and Peace seeks to promote and defend the Common Good, specifically by monitoring the development and implementation of public policy as it affects social justice.

Introduction

The Bill should be supported for the following reasons:

1. It provides, at least in part, some statutory framework to end the discriminatory practice of gender-based abortion.
2. It is consistent with Australia's support for measures aimed at ensuring respect for the human rights of all.
3. It seeks to ensure that the equality of rights for women is not eroded by the cultural practices of some groups (albeit a minority) that make-up Australia's vibrant and harmonious multi-cultural community.
4. It sends a clear and unequivocal message that Australia will not tolerate customs and practices that do not accord with internationally adopted Human Rights instruments.
5. It seeks to ensure the Common Good.

Submission

TERMS OF REFERENCE 1

The unacceptability to Australians of the use of Medicare funding for the purpose of gender selection abortions.

The overwhelming majority of Australians do not support gender selection as the basis for the performance of the termination of an unborn child.

It therefore naturally follows that most Australians would not support the use of public money to be used for the purpose of funding a procedure, that is in any rationale view, an abhorrence.

No comprehensive survey of Australian attitudes to Medicare funding of gender based abortion exists, in part because the practice is one of only recent currency in this country. Nevertheless evidence does exist of the general Australian disdain of this practice, even within the submissions to this current Inquiry.

Respected organisations such as the National Association of Specialist Obstetricians and Gynaecologists have in their submission declared that not one of its constituent members (responding to their survey on the matter) supported social gender selection.ⁱ Diverse groups such as Women's Health Victoria, Women's Health West also oppose gender selective abortion.ⁱⁱ

It may be argued by some that other means should be used to discourage, (or eliminate) the practice of gender based abortions. However, to discount the effectiveness of withdrawing Medicare funding, as an important tool in the armoury of stamping out this abhorrent practice, is a short-sighted, naïve (and perhaps ideologically driven) position to take.

The cultural traditions and practices that lead certain ethnic groups to perform (or at least, seek out) gender based abortions are in most cases deeply ingrained and therefore intransigent. The withdrawal of Medicare funding for gender based abortions, by itself, could not ever be sufficient as to provide complete protection for the unborn female child.

However the opposite position is clear. The provision of Medicare funding for this almost universally condemned practice sends a precise and ubiquitous message that such a practice is not only tolerated, but is positively encouraged.

In all other spheres of public policy, the provision of Government funding, whether through subsidies, scholarships, rebates, tariffs, or in this case Medicare funding, sends an unambiguous message that such a policy, or practice, is both acceptable and in the Common Good.

Gender based abortion is a practice that Australians could not, and do not, find to be in the Common Good. The provision of public funding for any practice that is not in the Common Good, is a mis-use of limited community resources.

The Bill should be enacted on these grounds alone.

TERMS OF REFERENCE 2

The prevalence of gender selection – with preference for a male child - amongst some ethnic groups present in Australia and the recourse to Medicare funded abortions to terminate female children.

In most Australian jurisdictions, access to abortion is now available without the need for supporting medical oversight up until at least 26 weeks of gestation. The position adopted by most State legislatures

is that abortion is afforded the status of most other medical procedures. Despite this position, the collection of data on this one particular medical procedure, (including the reason or reasons occasioning the termination) is almost non-existent. As such, it is difficult to determine the extent to which any of the estimated 80,000 abortions which occur annually in Australia are carried out for the purpose of gender selection.

Notwithstanding, it is clear and undisputed that this abhorrent practice is being carried out in Australia and that under the current legislative framework, the procedure is funded by Medicare.

It must be emphasised that all current human rights instruments make no distinction between human rights abuses of the few and human rights abuses of the many. Any denial of human rights is an attack on the Common Good.

The attack on the human rights of unborn females amongst certain ethnic groups within Australia is an attack on the human rights of all Australians.

It may reasonably be estimated that the incidence of gender based abortions carried out within Australia's ethnic Chinese and Indian populations (for example) must equate proportionately to the incidence of gender based abortion within these communities generally.

The Bill should be enacted to best ensure that no gender based abortions occur within Australia.

TERMS OF REFERENCE 3

The use of Medicare funded gender-selection abortions for the purpose of "family-balancing".

At the 1994 United Nations International Conference on Population and Development (ICPD), having adopted on principle, the "right to decide freely and responsibly the number and spacing of their children"ⁱⁱⁱ the Programme of Action which arose from the Conference specifically took the position that:

"In no case should abortion be promoted as a method of family planning."^{iv}

As a participant at the ICPD and a Signatory to the document arising from the Conference, it is incumbent upon the Australian Parliament to take all such legislative action, so as to give effect to these particular instruments.

For the purpose of maintaining Australia's international integrity, the Bill should be enacted.

TERMS OF REFERENCE 4

Support for campaigns by United Nations agencies to end discriminatory practice of gender selection through implementing disincentives for gender-selection abortions

The United Nations estimate that over 200 million females are missing worldwide and that at least 160 million children have been aborted in China alone simply because they are female. It would be a statement of almost foolhardy naïvety to suggest that gender-based abortion does not occur in Australia.

Grounded on the United Nations Universal Declaration of Human Rights, the Declaration on the Rights of the Child, and arising from such international gatherings as the Fourth World Conference on Women held at Beijing in 1995, Australia has committed herself to being a strong and unceasing defender of

human rights, in particular, but not limited to, the promotion of equality and the elimination of violence against women.

As an active and willing signatory to such human rights instruments, it is incumbent upon the Australian Parliament to take all such necessary steps so as to give legislative effect to the principles and values contained therein.

In particular, the Beijing Platform for Action binds the Australian Parliament:

“To enact and enforce legislation protecting girls from all forms of violence, *including pre-natal sex selection*”^v (emphasis added).

The Australian Parliament is that body which has constitutional authority to give effect to international Treaties and Instruments of the United Nations, the ratification of which is designed to bring about the Common Good. The responsibility for attaining the common good, besides falling to individual persons, belongs also to the State (in this instance the Commonwealth Parliament), since the common good is the reason that the political authority exists.^{vi}

The proposed Bill is a deliberative and necessary instrument to ensure the Common Good, by enshrining in Australian law, the principles of those human rights instruments to which Australia is a signatory.

In order to give effect to United Nations instruments designed to end the discriminatory practice of gender-selection this Bill should be enacted.

Conclusion.

It is the purpose of government to protect and defend the Common Good. The denial of, or attack upon, the human rights of any individual or group, is an attack upon the Common Good.

Any incidence of gender based abortion is one such attack upon the human rights of all Australians.

The cultural practice of aborting female children on the basis of gender cannot, and should not, be countenanced in a nation that seeks to promote equality.

The provision of Medicare funding for such an abhorrent attack upon human rights sends at best, an ambiguous message, and at worst, a tacit approval of the cultural practices that seek to devalue the worth of women.

The proposed legislation, seeks to address the abuse of the human rights of unborn female children.

The Bill will preserve and strengthen the Common Good.

In order that a clear, concise and unambiguous message is communicated that gender-based abortion is not acceptable in a civilised nation, this Bill should be enacted.

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ENDNOTES

ⁱ The National Association of Specialist Obstetricians and Gynaecologists submission to the Health Insurance Amendment (Medicare Funding for Certain Types of Abortion) Bill 2013 Inquiry.

ⁱⁱ Women's Health Victoria submission to the Health Insurance Amendment (Medicare Funding for Certain Types of Abortion) Bill 2013 Inquiry.

ⁱⁱⁱ United Nations ICDP Programme of Action Paragraph 7.3

^{iv} Ibid. Paragraph 8.25

^v Fourth World Conference on Women. Beijing Paragraph 283 (d)

^{vi} *Compendium of the Social Doctrine of the Church* Vatican 2004 Paragraph 164