

Submission to the Senate Inquiry

Re: Social Services Legislation Amendment (No Jab, No Play) Bill 2015

Summary of this Submission:

The purpose of this Bill is stated to be ‘to encourage vaccination’ and this is being done by providing a financial incentive for parents who *fully* vaccinate their children. This is a coercive strategy that is incompatible with human rights because the policy is not supported by evidence that it is for a legitimate public health purpose. The Australian NIP has not been designed by the Commonwealth of Australia in response to the Australian situation but by the Global Alliance for Vaccines and Immunisation (GAVI) with input from industry. This is an international agreement that has not considered the specific public health requirements of the Australian environment. The policy is also not supported by legislation or regulations in any Health Acts in Australia or by allied health professionals that use evidence-based medicine to promote health. Vaccination in Australia is not compulsory. This policy is being implemented at a time when there is no increased risk from infectious diseases and this coercive measure is not proportionate to the risk of infectious diseases in the Australian community. There is also no evidence to support the claim that vaccines are necessary for the ‘prevention, treatment and control of epidemic, endemic, occupational, and other diseases’. The Australian Academy of Science (AAS) supportive document for government vaccination policies has made this claim by selecting out the historical evidence showing that infectious diseases declined in the 20th century prior to the use of the majority of vaccines in all developed countries (Commonwealth Yearbook of Australia 1945–1986; Stanley 2001).

The AAS claims hundreds of millions of deaths have been prevented by vaccines but this claim is made by ignoring the many deaths and cases of illness that have been caused by vaccines. This policy will not protect public health because it is not founded on the precautionary principle (pp) in a format that would achieve this outcome. The format of the pp that would protect population health is that which was adopted by the Scientific and Environmental Health Network (SEHN) in 1998. This principle is stated as:

‘The burden of proof of harmlessness of any procedure/technology is on the proponent and not the general public’.

When this principle is reversed and the onus of proof is placed on the general public then governments can claim there is no evidence that vaccines are causing harm by ignoring or not

funding the studies that would provide conclusive evidence for a causal link. This is the format of the pp that the Australian government has adopted and it allows a medical intervention to be used without full scientific certainty of the health outcomes in the population. For this reason, this social welfare policy will represent a crime against humanity if it is implemented because it is not compatible with human rights i.e. there is no legitimate public health purpose, and it does not prevent experimentation on the Australian population.

Submission:

The stated fundamental reason for this policy is to encourage vaccination because of '*its importance in preventing infectious diseases and its significance for the wider community.*' This submission opposes the Bill on the grounds that all the medical literature has not been included in this assessment of the importance of vaccination to the wider community. For example, the Commonwealth of Australia has not investigated the plausible causal link between the escalating chronic illnesses in children over the last two decades with the increased use of vaccines in the population (NCIRS). This correlation has been observed in many countries as the participation rates in vaccination programs have increased (AIHW 2005; PHAC 2007; Burton 2003). Without this evidence, the Australian government cannot prove that vaccines are a safe strategy or the most effective strategy for improving community health. The claim that vaccines provide more good than harm to population health is without foundation because governments globally have not funded potentially relevant vaccination research because it would be unwelcome to vested interests. This lack of sufficient research and lack of independent assessment of the research that is funded means that the Australian government cannot claim that the benefits of multiple vaccines in infants far outweighs the risks of vaccines to individuals or the wider community.

In addition, there is no public health legislation or regulations under Health Acts in Australia to support this social services policy as being for a legitimate public health purpose. There is no case for breaching international human rights covenants or the Australian Immunisation Handbook (NHMRC) regarding the principle of '*informed consent without coercion*' if the Health Department does not have public health legislation to support this coercive measure in a social welfare policy. This policy poses a serious danger to public health because the government is using selective scientific evidence funded by vaccine manufacturers to make political decisions in *a social welfare policy* about public health. This policy has no legitimacy if it is not supported by public health legislation. Vaccination in Australia is not

compulsory and the Social Services Department has not presented a legitimate purpose for mandating vaccination with financial rewards when there is no increased threat from infectious diseases. This measure is not proportionate to the risk of infectious diseases in Australia in 2015.

The Stated Purpose of the Amendment Bill

The government states this Bill is to *encourage parents to fully vaccinate their children before families' access social welfare benefits such as the child benefit, childcare rebate or family Tax Part A supplement*. This requires that parents must 'fully vaccinate' their child with all the vaccines recommended on the ever expanding national immunisation program (NIP): no selective vaccination will be allowed for those receiving benefits. This policy does not give a reason why this is necessary, only that 'immunisation is important to public health'. Whilst immunity to diseases is important to community health, 'vaccination' is not 'immunisation' and the Social Services Department has misused this word in this document. This is explained further below.

Choice in vaccination will be removed in this policy by changing the definition of 'conscientious objection (CO)' as well as the definition of 'general practitioner'. The new definition of CO will remove personal, philosophical and most religious objections to this medical intervention, and the new definition of a 'general practitioner' will reduce medical exemptions because only doctors who are certified by the General Practice Recognition Committee (GPRC) will be eligible to make decisions about contraindications to vaccination. This body enforces the *Good Medical Practice* guidelines that require Australian medical practitioners to support government vaccination policies in order for practitioners to remain registered (MBA). The GPRC also determines the mandatory professional development requirements for certified doctors which governs their *education*. This allows doctors to be educated with selective medical literature, much of which is funded by vaccine manufacturers and minimises the risks of vaccines.

This amendment Bill offers financial rewards to parents for using a medical intervention in their children. It effectively removes the right of parents to 'informed consent without coercion' to this medical intervention in receipt for social services benefits; a policy that will discriminate against healthy Australian children. The removal of 'informed consent without coercion' is a breach of the Australian Immunisation Handbook (Section 2.1.3) that the

Australian Technical Advisory Board on Immunisation (ATAGI) is required to adhere to (NHMRC). This amendment bill is removing a fundamental tenet of good medical practice that was adopted in the Nuremberg Code, the Declaration of Geneva and many international covenants. This principle states that:

‘Informed consent for vaccination must be given voluntarily in the absence of undue pressure, coercion and manipulation’ and ‘it can only be given after the potential risks and benefits of the relevant vaccine, risks of not having it and any alternative options have been explained to the individual (Australian Immunisation Handbook (Ed 10) Section 2.1.3)

Australian doctors included in the new definition of ‘general practitioner’ will be breaching this tenet of medical practice because they will not be able to ***provide information on all the potential risks and benefits of vaccines or alternative options to preventing infectious diseases.*** Under the new definition only doctors educated with science certified by the GPRO will be allowed to make decisions about children being exempt from a vaccine. This is a method of selecting out the science that does not support the use of multiple vaccines in humans and this medical literature is being labelled by the government and the Australian media as ‘anti-vaccination’ to hinder public debate of the issues.

The change in definition of ‘general practitioner’ will remove the allied health professionals that use an internationally recognised evidence-based paradigm to promote health and they are acknowledged by health funds because of this contribution to community health (AHPA). Allied health professionals have a direct role in patient care and they contribute to broader public health outcomes than western medical practitioners. This new definition will reduce the scope of public health to include a core set of beliefs for Australian General Practitioners that will exclude the holistic approach to disease prevention that is practised by allied health professionals. In other words, the change will remove evidence-based medical literature that demonstrates the environmental and lifestyle issues that are causal factors in the expression of diseases. Examples of allied health professionals include dietitians, genetic counsellors, and osteopaths etc. who represent approximately 78,000 health professionals in Australia. A policy that bases mandatory vaccination for financial compensation on selective medical literature and breaches a fundamental tenet of medical practice to enforce this policy is a danger to public health.

The Australian Government's Reasons for this Policy

The Australian government's stated reason for implementing this social services (not public health) policy is that '*it reinforces the importance of immunisation and protecting public health, especially for children*'. There are many problems with this simplistic objective:

1. The Australian NIP has not been designed by the Commonwealth of Australia in response to the Australian situation but by the Global Alliance for Vaccines and Immunisation (GAVI) with input from industry, the World Bank, the International Monetary Fund and other private foundations and partnerships with WHO and UNICEF (Roalkvam et al 2013). Australian vaccination policies are part of a global initiative based on international agreements that do not consider the specific public health needs of the Australian community.
2. An evidence-based medical intervention does not require financial rewards for compliance. Such a policy would be supported by educated people in the population who would be assisting to promote this policy. However, in Australia today and globally, many educated people and doctors are choosing not to vaccinate (McIntyre NCIRS) but the Australian mainstream media will not accurately report the reasons why educated people are not vaccinating.
3. Doctors and allied health professionals are not free to present all the medical literature on the risks of vaccines because their careers are linked to registration with professional bodies that are requiring support for government vaccination programs. The education materials for vaccination programs are supplied to health professionals through their professional associations and these are minimising the risks of vaccination by using selective studies funded by industry.
4. Industry is now influential in every aspect of vaccination research, development and promotion. This includes university equity in vaccine research and the promotion of studies in prestigious journals that are funded by industry. The quality of research on vaccination is compromised by vested interests that are highlighted by the conflicts of interests on US and Australian government vaccine advisory boards.
5. The Social Services Department has misused the word 'immunisation' in this policy objective. The government is referring to 'vaccination' in this statement not 'immunisation' and this is misleading the public about the benefits of vaccines. These two words have very different meanings. Whilst immunity in children is important

there are two types of immunity – natural or vaccine-induced, and vaccines do not produce immunity in all individuals and individuals can obtain immunity without receiving a vaccine from natural exposure to the agent. For this reason the *importance* of vaccination to *public health* is debateable and needs proper public scrutiny and discussion.

6. This policy will not have had proper public scrutiny and debate before its implementation on 1 January 2016 because of the powerful influence of lobby groups in the Australian media and institutions. These groups are framing the issues with misinformation and using abuse and ridicule to prevent debate. They are also providing awards for individuals who promote vaccines on anecdotal evidence (evidence not used in policy design) and who present misinformation to government bodies to lobby against parents who are concerned about the information that is being provided on vaccines. The activities of the Australian Skeptics lobby groups and the Stop the Australian Vaccination Network (SAVN) are described in **Attachment 1** and they have been supported in their lobbying activities by the Public Health Association of Australia (PHAA). Academics speaking against the interests of these lobby groups are subject to defamatory attacks on social media and also by university academics speaking outside their area of expertise in the mainstream media. This prevents proper debate of vaccination policies.

Human Rights Compatibility

In formulating public policies governments have a duty to uphold international human rights covenants. It is stated that a policy can infringe on human rights if the action is shown to be for a legitimate public health purpose, proportionate to the risk and formalised in law. Yet this social services policy does not comply with any of these requirements. Here is a list of the reasons why this policy is not compatible with human rights covenants:

- The document states that the reason for the policy is because it '*reinforces the importance of immunisation and protecting public health, especially for children*' but there is no evidence provided to show that mandating *all the vaccines* recommended by the government in the NIP will produce immunity for these diseases *or* protect public health. In fact, the available evidence suggests that enforcing all these vaccines will be detrimental to health, specifically to children's health. All vaccines come with a risk of illness, disability or death that is dependent on genetics, and since 1990

chronic illness in children has escalated 5-fold – anaphylaxis, food allergies and asthma (ASCIA 2015). These conditions are debilitating and life threatening and the government has not investigated this correlation (NCIRS).

- Many of the vaccines on the NIP have been introduced since 1990 when infectious diseases were not a risk to the majority of the Australian population (Stanley 2001). These vaccines did not reduce the deaths and illnesses to these diseases and therefore did not produce vaccine-created herd immunity in the community to prevent these diseases. The Australian government has not provided evidence that these vaccines *can* provide herd immunity in the Australian population to prevent these diseases (Nolan T 2010), therefore there is no legitimate reason to mandate all the vaccines on the NIP. The directors of the NCIRS, Burgess (1999-2004) and McIntyre (2004-2015), also stated in 1991 that the theory that a 95% uptake of pertussis (whooping cough) vaccine could produce herd immunity was ‘probably wrong’ (Zeigler, Burgess, Gilbert and McIntyre 1991 p16). There is no consensus on the theory of vaccine-induced herd immunity or its importance to the prevention of disease in the wider community; therefore there is no legitimate reason for mandating all the vaccines on the NIP in a social welfare policy when they were not responsible for the decline in risk from these diseases.
- Mandating these vaccines is also not proportionate to the risk of these diseases because most of them were not a risk to the majority of Australians before the vaccines were introduced (Stanley 2001).
- There is no legislation or regulation under any Health Act in Australia that supports the necessity for this social services policy. Vaccination in Australia is not compulsory.
- This policy breaches the International Covenant for Economic, Social and Cultural Rights (ICESCR article 12) which upholds the right to physical and mental health. This is breached because many of the vaccines on the NIP were not responsible for the reduction in the infant mortality rate in Australia (Stanley 2001) and they are described by the US government as ‘unavoidably unsafe’. The vaccines are responsible for causing harm to an unknown percentage of the Australian population so it is incorrect to claim that vaccines are ‘for the healthy development of the child’. Many Australians will be harmed by this policy due to the genetic diversity of the population.

- This policy breaches the Convention of the Rights of the Child (Article 24). This convention states that children have a right to enjoy the highest attainable standard of health and measures to ‘diminish infant and child mortality’ and to ‘combat disease’. This policy is incompatible with this right for the same reasons listed above and it is also contrary to achieving this goal because extending vaccination requirements will cause disability and disease in a greater percentage of children when there is no increased threat from these diseases. The AAS claims hundreds of millions of deaths have been prevented by vaccines but this claim is made by ignoring the many deaths and cases of illness that have been caused by vaccines.
- This policy breaches the right to freedom of thought, conscience, and religion in the International Covenant on Civil and Political Rights (ICCPR Article 18) because this limitation has not been demonstrated to be necessary to protect public health or to be necessary to protect the fundamental rights and freedoms of others. In addition, many families depend on welfare benefits for their livelihood and the removal of conscientious objection to obtain welfare benefits is a coercive strategy that pressures family’s to use vaccines for financial reward. This is unethical and it breaches the Australian Immunisation Handbook (Ed. 10 Section 2.1.3) that provides directives for medical practitioners that policy advisors are required to adhere to. The Government has not provided a reason for breaching this directive provided by the National Health and Medical Research Council (NHMRC). The suggestion that ‘vaccination is the most effective method of preventing infectious diseases’ and therefore ‘provides a necessary protection of public health’ is a value judgment about the benefits of vaccines that has not been founded on the weight of evidence because selective scientific-evidence is being used by vaccine advisory boards to recommend vaccination policies.
- The government suggests that families have the right to uphold their conscientious or religious objections by choosing not to receive these payments yet this is a discriminatory social welfare policy that reduces the choices families have by forcing many taxpayers to forgo welfare benefits they are otherwise entitled to *without justification*. For many families who have researched the harmful effects of vaccines and are making an educated decision about their children’s health, this decision will cause significant lifestyle stress and be detrimental to the physical and mental health of many Australians. Whilst the government claims families that are affected by this

measure will be eligible 'to receive fortnightly payments of family tax benefit to assist with raising children' it doesn't state which benefit or how much they will receive and this could be withdrawn at any time. Australians have a right to non-discriminatory social welfare policies. Article 9 of the ICESCR is the Right to Social Security that includes the requirement that social security 'is accessible (providing universal coverage, without discrimination and qualifying and withdrawal conditions that are lawful, reasonable, proportionate and transparent' (AG APb pp105-6). This proposed policy does not fulfill these requirements.

The Precautionary Principle (PP) has not been applied in the development of this policy in a format that would protect public health. The format of the pp that would protect population health is that which was adopted by the Scientific and Environmental Health Network (SEHN) in 1998. This principle is stated as:

'The burden of proof of harmlessness of any procedure/technology is on the proponent and not the general public'.

When this principle is reversed and the onus of proof is placed on the general public and not the proponent, the proponent's interests are protected in public policy. In this social welfare policy, the format of the pp protects the vaccine manufacturers to produce a stable market for the research, development and promotion of an unlimited number of vaccines. This stable market is reinforced by the fact that vaccine manufacturers that license their vaccines in the US are exempt from liability for any damage caused by the vaccine; a product known to have risks in genetically diverse populations. The Commonwealth of Australia is also exempt from any liability or responsibility for damage or injury caused to people who rely on the information it provides on the Immunise Australia Program (IAP) website. This is stated in the disclaimer on the website. It also states 'this information is for 'information purposes only' and it is not warranted to be 'accurate, current or complete'. This is being stated for a product that is being mandated in social welfare policies and that is known to have risks for some people. It is not too strong to suggest that this policy will be a crime against humanity if it is implemented because it will result in experimentation on the Australian population due to the uncertain health outcomes it is promoting in the community.

Judy Wilyman

PhD Candidate

References:

Further references can be obtained from my doctoral thesis submitted at the University of Wollongong.

Australian Institute of Health and Welfare (AIHW). 2005. Child health, development and wellbeing. Australian Government:

- a) Selected Chronic Diseases Among Australia's Children. Bulletin 29. September 2005.
- b) Chronic Diseases and Associated Risk Factors.
- c) A Picture of Australia's Children. May. 2005 (accessed March 2006).

Allied Health Professionals Australia (AHPA)

<http://www.ahpa.com.au/Home/DefinitionofAlliedHealth.aspx>

Angell M. 2009. Drug Companies and Doctors: a Story of Corruption, *The New York Review of Books*. <http://www.nybooks.com/articles/archives/2009/jan/15/drug-companies-doctors-a-story-of-corruption/> (accessed Nov 2011).

Australasian Society of Clinical Immunology and Allergy (ASCIA). 2015. First National Allergy Strategy released. Press release. 7 August <http://www.allergy.org.au/about-ascia/media/617-aug-7-2015-first-national-allergy-strategy-released> (accessed August 2015).

Australian Government (AG). Department of Health and Ageing. *The Australian Immunisation Handbook*. 10th Edition. 2013.

Australian Government. 2015. Australian Parliament (AP). Twenty-second Report of the 4th Parliament: a) Chapter 1 Social Services Legislation Amendment Bill 2015 (May): p105 b) Chapter 1 Right to Privacy: p58.

Australian Government. 2015. Department of Health (DH). Copyright, Linking, Disclaimer and Privacy. April

<http://immunise.health.gov.au/internet/immunise/publishing.nsf/Content/copyright#disclaimer> (accessed August 2015).

Bitá N. 2010. "A flu jab too close for comfort". *The Australian*. 29th September

Burton D. 2003. Mercury in Medicine Report, US Congressional Record; Findings and Recommendations, Safe Exposure Standard as Reported in Executive Summary. 20th May. www.aapsonline.org/vaccines/mercinmed.pdf (accessed June 2013).

Krimsky S. 2003. *Science in the Private Interest: has the lure of profits corrupted biomedical research?* Lanham MD: Rowman and Littlefield.

Nolan T. 2010. The Australian model of immunisation advice and vaccine funding. *Vaccine*. 28 (April) Suppl 1: A76-A83.

Nolan T, McVernon J, Skeljo M, Richmond P, Wadia U, Lambert S, Nissen M, Marshall H, Booy R, Heron L, Hartel G, Lai M, Bassar R, Gittleson C, Greenberg M. 2010. Immunogenicity of a Monovalent 2009 Influenza A (H1N1) Vaccine in Infants and Children: A Randomised Trial. *Journal of the American Medical Association*. 303: 1(Jan): pp37-46: Supplementary online content. doi:10.1001/jama.2009.1911.

Public Health Agency of Canada (PHAC). 2007. Thimerosal Updated Statement. Communicable Disease Report. 33(July): ACS-6. Canada.
<http://www.phac-aspc.gc.ca/publicat/ccdr-rmtc/07vol33/acs-06/>

Roalkvam S, McNeill D and Blume S (eds). *Protecting the World's Children: Immunisation Policies and Practice*. Oxford: Oxford University Press.

Science and Environmental Health Network (SEHN). The Precautionary Principle.
<http://sehn.org/precautionary-principle/> (accessed September 2011)

Stanley FJ. 2001. Centenary Article: Child Health Since Federation. In *Yearbook Australia 2001*. Canberra: Australian Bureau of Statistics [ABS Catalogue No. 1301.0]. pp368-400.

Vaccination Decisions, Lobby Groups and Media Influence in Australia
<http://vaccinationdecisions.net/lobby-groups/>

Zeigler JB, Burgess M, Gilbert G, McIntyre P. 1991. The Australian College of Pediatrics Policy Statement. Report of the immunization subcommittee on pertussis immunization, *Journal of Pediatrics and Child Health*. 27: 1: pp16-20.