ANGLICAN DIOCESE OF TASMANIA

A RESPONSE TO THE

DRAFT REPRODUCTIVE HEALTH (ACCESS TO TERMINATIONS) BILL 2013

APRIL 2013

Table of Contents

1. Overview

On International Women's Day, March 8 2013, The Hon. Michelle O'Byrne, Minister for Health and Minister for Children, announced the Reproductive Health (Access to Terminations) Bill 2013.

The Bill has been announced as a Private Members' Bill. However, the Bill is reflective of the policy of both the ALP[1] and the Tasmanian Greens.[2] Also, the draft Bill and information paper have been published and distributed by the Department of Health and Human Services.[3] Therefore, within this submission, the Bill will be treated as an exercise of the Government.

An initial consultation period concluding on March 22, 2013 was extended until April 5, 2013. The consultation simply invites comments on the draft Bill. This submission is a response to that invitation.

This submission is made by the Anglican Diocese of Tasmania, which is a part of the Anglican Church of Australia. The Diocese of Tasmania is geographically coterminous with the State of Tasmania. It consists of approximately 50 parishes and districts[4] as well as operating in areas of special need including hospital and prison chaplaincies. Over 128,000 Tasmanians (26% of the population)[5] identify as Anglican. Anglicans are represented in virtually every aspect of society and in every profession.

Correspondence with regard to this submission should be directed to the office of Bishop John Harrower:

bishop@anglicantas.org.au

GPO Box 748
Hobart, TAS 7001

(03) 6220 2020

1.1 Terminology

The Bill deals with the matter of terminations of a pregnancy. This is commonly referred to as an "abortion" although that term carries a certain ambiguity. This submission will use the word "termination" to refer to the situation in which a woman's pregnancy is terminated by medical or surgical means in which the life of the unborn child is also terminated.

This submission will use the word "child" or "unborn child." This is acceptable terminology within the United Nations *Declaration of the Rights of the Child*[6] which refers to a child "before birth." It is also reflective of the common use of language, e.g. a pregnant woman is "having a baby", or is "with child."

"The Bill" refers to the *Draft Reproductive Health (Access to Terminations) Bill 2013*.

"The Information Paper" refers to the *Information Paper relating to the draft Reproductive Health (Access to Terminations) Bill 2013* released by the Department of Health & Human Services

"The Minister" refers to the Hon. Michelle O'Byrne, who is moving the Bill.

2. Broad Concerns

2.1 The Changes *Are* Significant

The key provision of the draft Bill is to move the regulation of terminations out of Schedule 1 of the Criminal Code Act 1924. These laws had previously been adjusted in 2002, so as to effectively decriminalise a process for providing and obtaining terminations in Tasmania.

The Minister is of the opinion that the Bill is simply a matter of fixing unforeseen implementation problems[7] and that there is no in-principle change to what was decided in 2002. This is simply not the case.

The Bill makes significant changes both in and around the provision of pregnancy termination. It is a significant movement away from the balance and resulting equilibrium of previous debates. It is not reasonable to extrapolate from the status quo into new absolutist territory. Yet this is what the Bill would do.

The changes that would occur, if the Bill were to pass the Tasmanian parliament, are:

1. A change in the fundamental framework of regulating termination of pregnancy. Criminality would be the exception, not the rule.
2. The removal of any reference to the existence of the unborn child. The subject of a termination, whether lawful or unlawful, would be the mother alone.
3. The removal of any requirement for assessment of the mother or her child for terminations up to and including 24 weeks gestation. This would effectively introduce "abortion on demand."
4. The broadening of the assessment required for terminations after 24 weeks gestation so that social and economic circumstances are grounds for proceeding.
5. A new obligation for medical practitioners with conscientious objection to facilitate the procuring of a termination by making a referral.
6. A new obligation on non medical "counsellors", a broadly defined category that ostensibly includes anyone who is in a position to offer advice to a pregnant woman, to make a referral.
7. The creation of geographical areas in which existing public order laws are augmented by restricting ill-defined "prescribed (sic) behaviours" and peaceful protest.

These are not minor changes. These are profoundly significant changes in areas of discrimination, freedom of speech, freedom of religion, and most sadly, life and death.

2.2 Fundamental Concerns

The issue of terminations has previously been addressed by the Anglican Diocese of Tasmania, in particular through public statements by Bishop John Harrower, who said at the time of the 2002 changes to the law:

> *"While I am very concerned about the health of mothers, the lives of unborn infants are no less important."*[8]

Our broad position derives from this simple recognition of the value and humanity of both the unborn child and the mother. We therefore have a profound and fundamental disagreement with the following provisions of the Bill:

1. The effective introduction of "abortion on demand" for pregnancies up to 24 weeks gestation is an extreme implementation of the so-called "right to termination." It provides few safeguards to the mother and certainly none to the child.
2. The broadening of provision of late-term terminations to include all forms of psychosocial and economic factors gives no consideration at all to the viability, health or welfare of the child.

A secondary concern is the provisions in the Bill which relate to freedom of conscience and civil liberties. We disagree strongly with:

1. The introduction of an obligation, on pain of penalty, to facilitate terminations through referral. This requirement is impractical and unconscionable.
2. The limitation on civil liberties based on geographical areas and the communication of certain points of view is novel and unnecessary. Nothing has been presented that suggests existing harassment, privacy, and public nuisance laws are inadequate.

3. The Case for Change Has Not Been Made

The Information Paper presents a case for the changes in the Bill. It outlines some concerns with regard to the status quo and contends that there is a consequential necessity to adopt the changes.

We do not necessarily question the veracity of these concerns. What is questioned is the reasonableness of the conclusions that change is necessary.

3.1 ...BECAUSE UNPLANNED PREGNANCIES OCCUR.[9]

There is no doubt that unplanned pregnancies occur. This fact alone provides no justification for the changes proposed in the Bill

The sexual act between a man and a woman is inherently fertile. That fertility can be regulated responsibly through the use of contraception but it cannot be eliminated entirely.

The World Health Organisation statement on reproductive health states that, "Reproductive health... implies that people are able to have a **responsible**, satisfying and safe sex life and that they have the capability to reproduce and the freedom to decide if, when and how often to do so."[10]

A healthy sexual relationship embraces responsibility and the freedom of choice to reproduce coheres to that responsibility. The healthiness of sexual activity does not necessarily require unrestricted provision of terminations. Rather, it is best advanced through healthy responsible relationships and a willingness for all parties to the sexual union to meet whatever consequences arise.

The Information Paper has misrepresented the WHO statement by implying that two options – termination or "continuing a pregnancy"[11] - are an inherent part of reproductive health. Terminations are not put on a par with the need for sexual health and antenatal and postnatal care by the WHO statement. The Information Paper, when it quotes the WHO statement, inserts such language without warrant, fragrantly manipulating the text.

Tasmanian society rightly expects and enforces the responsibility of parents for infants and older children. It is not wrong, therefore, for society to have at least some expectation of sexual partners to exercise responsibility towards any child conceived by them.

Of course, there will be situations involving coercion or abuse, or danger to the health of the mother in continuing the pregnancy. But the simple fact that the pregnancy is unplanned is a tenuous basis for termination. It implies irresponsibility in the mother and the father. And it pays no heed to the child, who is surely not responsible for, but has every right to, his or her own existence.

3.2 ...BECAUSE CURRENT REGULATION IS UNDER CRIMINAL LAW.[12]

The Anglican Diocese of Tasmania does not, at this time, wish to advance an opinion on the matter of criminality in the context of terminations. There are likely many situations involving pregnancy where criminal sanctions are an entirely inappropriate response. There are also situations where a discretionary criminality is likely to be appropriate, analogous to the compassionate application of laws against infanticide. There are also situations where criminal sanction is entirely appropriate; this is a fact that the Bill itself recognises as it does not entirely detach regulation of terminations from the criminal code.

Nevertheless, the reasons outlined by the Information Paper[13] for decriminalisation are inadequate. In particular:

- Just because a law uses archaic language or has its roots in older or inherited legislation does not make it wrong in principle.
- The use of the criminal code should not be lightly dismissed as inappropriate. In fact, the Bill itself continues to use the criminal code to make in-principle adjustments: violence against an unborn child is removed, and causing a termination without consent is added; termination by someone other than a medical professional is added; failure to provide a referral is added; and engaging in prohibited behaviour in dissent against the practice of terminations is also made a criminal offence. It cannot be pretended that the Bill does away with the use of the criminal code.

The Information Paper links levels of service delivery to the current potential criminality of providing a termination. The assertion is that the current criminality impedes delivery of services, a point raised subsequently and considered in the next section.

The Minister has not applied a similar analysis of criminality and service delivery to her own proposal. What would be the impact on the delivery of health services for women and children, if medical practitioners with conscientious objection feel constrained by the possibility of criminal charges?

If the Minister was serious about the impact of criminality then, first, evidence would be provided that demonstrates that impact. Second, all aspects of regulation, including the penalties against those with whom the Minister has ideological disagreement, would be brought into the civil or professional domain.

3.3 ...BECAUSE CURRENT LAW ACTS AS A BARRIER TO HEALTHCARE SERVICES.[14]

The Information Paper states that "outdated and uncertain laws and the threat of criminal prosecution act as a deterrent to doctors and so impede the provision of a full range of safe, accessible and timely reproductive services for women."[15]

This assertion may or may not be correct. It is not adequately justified. For example, the Information Paper lacks data with regard to the number of women seeking but not receiving a termination in Tasmania.

Similarly, there is scant consideration of other possible causes behind a perceived lack of provision, such as economic realities. Have medical practitioners been surveyed? Has there been an economic analysis of the "market" for terminations in Tasmania? Without this sort of analysis it is reasonable to conclude that this issue is being approached through ideology, not objective facts.

The assertion also fails to acknowledge that there *are* certain barriers which are perfectly appropriate and reasonable:

- If termination of pregnancy is just a routine medical procedure why would it be inappropriate to consider it along with other procedures, as contingent on relative need? Many procedures or treatments are prioritised for those who have a relatively demonstrable medical need. Imperfect as it may be, the current law insists on some assessment of "need" for termination. The Bill abandons this principle.
- Similar, it is appropriate for the law to consider certain grounds for termination as inappropriate or illegal. The proposed changes allow access to termination on any grounds. This includes, for example, that of unwanted gender of the child. Comparable jurisdictions have struggled with this issue, and retain at least this barrier.[16] The setting of such barriers is a statement of principle about human rights, including that of gender equality. The Bill rejects this important mechanism.

3.4 ...BECAUSE THE LAW NEEDS TO ACKNOWLEDGE WOMEN AS CAPABLE DECISION MAKERS.[17]

The assertion presented by the Information Paper is this: "Laws that deny women the final decision on whether to have a termination do not fully recognise women as competent and conscientious decision makers."[18]

It is an assertion that is only absolutely true when the existence or independent value of the child is ignored.

The very nature of law is to place bounds on the decisions that people can make. For example, parents have the "final" decision on how to raise a child. But if those decisions cross some threshold of causing harm to the child, the law warrants a denial of the parents' choice. The law offers protection to a vulnerable child.

It is not inconsistent, therefore, to place *some* consideration of the child, at the very least the child's health and viability, into the regulation of terminations.

Sometimes the law is called upon to restrict a person's decisions about themselves.[19] The Bill itself makes use of this principle. The final decision for post 24-week terminations would rest with the doctor and specialist who must concur with the decision. If the doctor or specialist decides that greater harm would be done to the mother by proceeding with the termination then the termination does not proceed; the mother's decision is *not* the final decision as far as the Bill is concerned.

The principle behind this common application of law is the treatment of people as responsible adults.

The assertion is simply a matter of perspective. Others might argue that the proposal actually diminishes the standing of women because it implies women are inherently passive or irresponsible in sexual activity and require a paternalistic state to free them of the consequences of prior decisions.

3.5 ...BECAUSE THE LAW NEEDS TO RECOGNISE THAT A TERMINATION IS A SAFE MEDICAL PROCEDURE.[20]

The argument of the Information Paper is that the original laws banning terminations were based on the danger of procedures in the past.

This may or may not be the case. It is certainly the case that if terminations are to be carried out, they should be done as safely as possible for the mother and, at the very least, with appropriate pain relief for the child.

It should be noted that the mental health outcomes for mothers who proceed with a termination are far from certain. The Information Paper has not considered significant studies which demonstrate a causal link between choosing termination and subsequent negative outcomes.[21]

What is indisputable is that terminations are never safe for the child. Terminations of pregnancy cause the child's heart to stop and brain and nervous function to cease. Death for the child occurs.

The proposed laws make no consideration of when this death may or may not be acceptable. Indeed, it allows even late-term terminations with no consideration of the child whatsoever.

This is inconsistent with other aspects of the law, including the fact that stillbirths are to be registered with state authorities. In this instance a stillborn child “means a child of at least 20 weeks' gestation or, if it cannot be reliably established whether the period of gestation is more or less than 20 weeks, with a body mass of at least 400 grams at birth, that exhibits no sign of respiration or heartbeat or other sign of life after birth.”[22]

By this definition, a provision of termination in late pregnancy (after 20 weeks gestation) is not merely a decision to terminate a pregnancy, but to cause the stillbirth of a child. To deny this is to simply use euphemism as a means to hide the humanity of the unborn child.

The stillbirth of a child is commonly and rightly regarded as a tragedy. There is grief, and mourning, and one hopes, comfort and compassion. The termination of pregnancy, particularly in the latter parts of gestation, does severe injury to all parties.

3.6 ...BECAUSE THE LAW NEEDS TO RECOGNISE COMMUNITY STANDARDS.[23]

Public support is an appropriate factor in determining how to implement the expectations of the community in law.

The simplistic consideration in the Information Paper is concerning. The Minister wishes to interpret broad support for pregnancy termination as grounds for introducing virtually unrestricted termination in Tasmania.

A recent Galaxy poll of Tasmanians commissioned by pro-life group Emily's Voice[24] recognised that "many Tasmanians are generally supportive of access to abortion, with 16-24-year-olds least supportive at just 50%", however:

- 73% are opposed to late-term terminations (post 20 weeks gestation);
- 59% are opposed to terminations when the child has mild disabilities;
- 92% are opposed to terminations for the purposes of gender selection;
- 66% are opposed to terminations on the grounds that continuing the pregnancy would cause financial hardship;
- 79% are opposed to terminations on the grounds that the mother's career would be affected;
- 63% are opposed to terminations on the grounds that the parents feel they have enough children.

The proposed laws would allow terminations in all these circumstances, to which the community is demonstrably opposed!

The only circumstance included in the poll which garnered majority support (72%) was termination on the grounds of severe disability. Clearly, community standards seriously consider the health and viability of the child. The proposed laws do not consider the child at all!

There are copious examples in which society, including the government, emphasises and promotes the gestational health of a child. It is common for pregnancy support material to use phrases such as "looking after you and your baby" in an antenatal context. The unborn child is a "baby."

The continuity between antenatal and postnatal identity, and the attendant support and care, is universally assumed. And where that continuity does not exist it is questioned.[25] Together with the common articulation - "Babies of 24 weeks can survive!" - there is a clear inconsistency between the universal view of unborn children, particularly in the latter stages of gestation, and the dehumanisation that is required to make the Bill's changes palatable.

Two children of similar gestational age are not equally treated by this Bill. For one, facing premature birth, every resource is applied to aid survival. For another, facing termination, every resource is applied to bring life to an end. This is an inconsistency that is recognised by virtually all but those who have an ideological necessity to dehumanise the unborn child.

Community attitudes towards discriminatory actions are similarly apparent. Tasmanian society respects gender equality and the inclusion of those with disabilities as full members of the

community. Yet it is entirely likely under the provisions of the Bill that any reason, including gender, disability and other characteristics of the child, would be used as a cause for termination. Such matters can ostensibly contribute to a woman's simple choice (before 24 weeks) or choice related to social and economic circumstances (after 24 weeks). The discriminatory nature of this Bill is at odds with community expectations.

The Information Paper makes reference to the correlation between attitudes towards terminations and religious affiliation. There is no reason to introduce religious affiliation as a factor in this consideration. The only reason for the data's inclusion is the implicit derogation of religious groups as dominating and "well organised and resourced interest groups."[26] This is a blatantly discriminatory stereotyping of religious groups which implies an invalidation of the viewpoint of any citizen who holds a religious affiliation.

Moreover, the Information Paper appears ignorant of secular philosophical frameworks which recognise the value and humanity of the unborn child. The UN *Declaration of the Rights of the Child*, for instance, states in its preamble:

> *Whereas the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate* ***legal protection, before as well as after birth....***[27]

It is telling that the Bill removes Section 165 of the Criminal Code, which currently is a sanction against "causing the death of a child before birth." It thus eliminates from this aspect of Tasmanian law any concept of legal protections for an unborn child, even in situations irrelevant to termination such as acts of negligence or assault that result in prenatal death. This is at odds with the international standard.

Similarly the *Convention on the Elimination of All Forms of Discrimination against Women* does not insist on unrestricted access to terminations. Rather it emphasises the equality of men and women and the ability of women to exercise responsibility. In relation to pregnancy the emphasis is on the provision of adequate antenatal and postnatal care.

> *To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that* ***the interest of the children is the primordial consideration in all cases.***[28]

In terms of family planning, the *Convention* is rightly concerned to eliminate any form of coercion over a woman's reproductive choices. There is no implication that termination services are necessary to achieve this, although the provision of information, contraception and the elimination of male domination in relationships are necessary. The latter need is clearly affirmed:

> *...On a basis of equality of men and women...* ***the same rights*** *in matters relating to their children; in all cases the interests of the children shall be paramount;...* ***the same rights*** *to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights*[29]

The views of those who disagree with the proposed changes to the law in Tasmania are entirely commensurate with the expectations of the local community, and with international standards.

4. Criminalising Matters of Conscience

The chief focus of this submission is the recognition of the human value of the unborn child. The proposed changes, however, also interact with matters of civil liberty and freedom of conscience. While secondary to the chief focus, these are real concerns that need to be addressed.

4.1 Conscientious Objection and the Duty to Treat[30]

It is gratifying to see that conscientious objection provisions are retained in the proposed changes. However, the draft bill as it stands contains significant ambiguities.

1. There is no provision for a mother to make her choices known in emergency situations where her life might be at risk. There are cases, for example, in which, in a free choice, a mother delays treatment for cancer because of a pregnancy. The draft law could place doctors in an ill-defined legal situation if they heed a mother's choice to bear the risk herself of serious physical injury.
2. The threshold at which a situation is declared to be an emergency is ill-defined. In particular, with regard to the conscientious objection of nurses, it is uncertain whose discretion applies. There are concerns from the Victorian situation in which the professional discretion of midwives is ignored and nurses are "paternalistically directed"[31] to participate in circumstances against their own judgement.

There has also been no commitment from the Minister that those with a conscientious objection will not be treated unfairly in terms of employment and career opportunities.[32]

It should be noted that conscientious objection does not necessarily imply moral, religious or philosophical belief but can also arise from the simple need for self-care. For example, nurses who are women, "may have had a loss of pregnancy through a termination, through miscarriage or through foetal death in utero and who have undergone certain procedures and treatments to expel the foetus that has died intentionally or not. For them to be forced to participate... they would conscientiously object on the grounds that they want the best care for the woman and that they cannot actually give that care themselves because of what they have gone through, their own harms, their own fears or what they have experienced."[33]

4.2 Obligation to Refer[34]

The proposed laws will introduce a legal obligation for medical practitioners and others to facilitate access to termination services, by making a referral that would assist access to a termination.

In the circumstance of medical practitioners, the Information Paper makes an utterly specious statement when it declares: "Such referral is standard clinical practice."[35] In fact, the code of ethics applied to medical practitioners by the Australian Medical Association simply states:

> *When a personal moral judgement or religious belief alone prevents you from recommending some form of therapy, inform your patient so that they may seek care elsewhere.*[36]

Informing the patient about conscientious objection is good current practice. The obligation to refer is unjust, impractical and a novel inclusion in law.

1. It is unjust because *"referral is, for many who do hold a conscientious objection to abortion, just the same as actually undertaking the procedure itself."*[37] At the very least a referral is an act of facilitation. Compelling a referral is to compel someone to be complicit for something which is, in good conscience, untenable for them. The gravity of this should be understood. For some, the termination of pregnancy, at least on some grounds, is an act akin to murder or wrongful cause of death. A person should not be compelled to have the facilitation of a wrongful death on their conscience.

   The Minister does not justify the need for this obligation. Who misses out? The obligation to inform remains and someone seeking a termination would not be prevented from doing so or compelled to receive ongoing care from the objecting practitioner.

2. It is impractical. The Minister does not consider the complexities and uncertainties that this obligation creates. Conscientious objection, by definition, is not something that can be circumscribed – it is a matter of conscience. A practitioner may, for instance, have no absolute objection to termination, but might object to providing a termination on certain grounds, because of a suspicion of coercion, or some other reason. Is such a person compelled to refer? And if the second practitioner also objects, on the same or other grounds, would the original practitioner be liable for penalty? The obligation requires that a practitioner be absolutely certain about the discretionary professional judgement of somebody else!

   The current obligations inherent to the professionalism of medical practitioners are enough. The implication that conscientious objection undermines professionalism is discriminatory.

3. It is a novel inclusion. The proposal to extend obligations to any "person who provides a service that involves counselling whether or not for fee or reward" is particularly draconian. The flawed concept of obligatory referral is applied to an ill-defined swathe of professional and ordinary citizens. The bill broadly defines "pregnancy options advice" so that a referral is compelled in virtually every circumstance in which a "counsellor" engages in conversation with a pregnant woman.

   It is noted that clergy and church workers would likely fall under the definition of "counsellor." There would thus be an ideological intrusion into the doctrinal and ethical integrity of religious organisations, their members, and ministers. It is akin to the establishment to some "acceptable" practice of religion.

4.3 Access Zones[38]

Any form of harassment or nuisance in public spaces cannot be condoned. Certainly, it is inappropriate for those who object to the termination of pregnancy to seek to prevent terminations through intimidation, invasion of privacy, or physical restriction.

The proposal to introduce Access Zones around termination service providers is a mechanism that is also contemptible:

- No justification has been provided that demonstrates how existing laws relating to privacy, harassment and public nuisance are inadequate in these areas.
- The list of "prescribed (sic) behaviours" is extremely broad and is an obvious pathway for the restriction of speech on ideological grounds.
- The arbitrary geographical area is ill-defined, which might lead to inadvertent breaking of the law.
- The arbitrary geographical area does not take into account geographical context, including the nature of the nearby buildings and public spaces in which peaceful protest may be entirely appropriate.

5. Recommendations

5.1 Embrace a Life-Affirming Vision for Tasmania

`We are having imposed on us a culture of death, instead of a culture of life.''[39]

The conception of a child is a profound thing. However, it is not always a positive experience. Confusion, worry, and even trauma attend to some circumstances. The conception of a child can interrupt plans, and bring imbalance to the lives of both mother and father. It is incumbent upon society to respond to such situations from a positive, considerate, life-affirming approach.

The reforms contained in the Bill are not life-affirming, but life-denying. In the context of other recent attempts at social reform in Tasmania, this Bill speaks of political expediency and a visceral elevation of individualism, even at the cost of the weakest among us. We, therefore, question the philosophy behind this proposal and urge that a different vision, a different framework be embraced.

The Anglican Church in Tasmania seeks to articulate and promote a life-affirming vision. To borrow words from the Anglican Communion's "marks of mission,"[40] we yearn for a community which is both welcoming and transforming of people's wellbeing in which the poor and needy are embraced and injustice and oppression challenged and where there is a protection, care and renewal of life in all its forms.

This is a life-promoting vision.

A life-promoting vision embraces freedom, love, and solidarity. It is not blind to the realities of the world in which cruelty and mishap occur. It does not sanitise life's difficulties.

The response to such reality is to promote and seek renewal through care, compassion, and communication. The avoidance of the difficult, the elimination of the inconvenient, the termination of the burdensome are at odds with this vision.

With regards to the issue of termination, our fundamental value is simple and clear: **we recognise the human life of the unborn child and the child's mother.** We recognise the interconnectedness of professional, familial, and communal relationships. We recognise the complexity that is invoked when unplanned pregnancy occurs. We aspire to a Tasmania that responds to such situations with care, compassion, and support for *all* involved.

While there may be situations in which the difficulties of the real world mean that the life of the child must end, we look for our society to approach such situations with appropriate grief, concern, and support.

It is our view that the current proposal, both in its content and the manner in which it is being promoted, is inherently anti-life. The proposal presents termination as an absolute right, a prize to be claimed. Those who disagree, who are moved to the depths of their being about the loss of humanity, are derided, misrepresented and ultimately criminalised.

It is our hope that the Minister, and her colleagues in government, will realise that more

thoughtfulness is required. As it is, her proposal triumphs the powerful. Her individualism validates the strong. The weak are weakened. The minority are marginalised.

The developing unborn child is the closest we get to meeting a pure and innocent humanity, entirely dependent on another, entirely reliant and entirely full of potential. To fail to offer some protection of such preciousness is one thing. To completely ignore the child's existence, as this proposal does, demonstrates a hardness of heart, and an inhumanity that would taint our common identity and bankrupt our hopes for a life-giving Tasmania.

5.2 Withdraw the Bill

It is the opinion of the Anglican Diocese of Tasmania that while the Draft Bill clearly needs major surgery, the key issue of eliminating any reference to the child in law is such a fundamental flaw that the Bill should be withdrawn. With regard to the Bill itself, termination is the sole option.

5.3 Monitor and Review Properly and Transparently

If the current situation in Tasmania is believed to be ineffective or inappropriate, a proper review should be conducted that delivers a thorough analysis and a considered pathway for change. This issue of terminating an unborn life speaks to our very identity and our notion of humanity – it effects all in society, and all should be consulted.

1 ALP National Platform, Section 46 http://www.alp.org.au:6020/getattachment/fdffe386-48e4-4ead-be88-d099e884bc54/our-platform/
2 Source: http://greens.org.au/policies/care-for-people/health point 27, accessed March 26, 2013
3 See http://www.dhhs.tas.gov.au/pophealth/womens_health, accessed March 26, 2013
4 See http://anglicantas.org.au/parishes/
5 Source: 2011 Census data, see: http://www.censusdata.abs.gov.au/census_services/getproduct/census/2011/quickstat/6
6 Source: http://www.unicef.org/lac/spbarbados/Legal/global/General/declaration_child1959.pdf
7 Source: http://www.examiner.com.au/story/1352311/give-us-time-church/
8 Bishop John Harrower, Media Release, December 12, 2001
9 The Information Paper, Page 6
10 World Health Organisation, Overview of Reproductive Health, http://www.who.int/topics/reproductive_health/en/ accessed March 26, 2013, emphasis ours
11 The Information paper, Page 4
12 The Information Paper, Page 7
13 The Information Paper, Page 7
14 The Information Paper, Page 8
15 The Information Paper, Page 8
16 e.g. consider the issue of gender selection abortion in the United Kingdom, http://www.telegraph.co.uk/news/uknews/crime/9794577/The-abortion-of-unwanted-girls-taking-place-in-the-UK.html accessed March 27, 2013
17 The Information Paper, Page 9
18 The Information Paper, Page 9
19 e.g. Section 53 of the *Criminal Code*, removes the right to give consent to injury against oneself.
20 The Information Paper, Page 10
21 Consider the integrated analysis provided in Priscilla Coleman, 'Does Abortion Cause Mental Health Problems?', *World Expert Consortium for Abortion Research and Education*, available at http://realchoices.org.au/wp-content/uploads/2012/07/Causal-evidence_abortion-and-mental-health.pdf
22 Section 3, Births, Deaths and Marriages Registration Act 1999
23 The Information Paper, Page 11
24 See http://www.emilysvoice.com/news-events/news/tasmanians-opposed-to-abortion/
25 e.g. Consider the Queensland Police Union's request for consistency in applying child protection laws, including neglect, in both postnatal and antenatal circumstances. http://www.childprotectioninquiry.qld.gov.au/__data/assets/pdf_file/0009/172692/Queensland_Police_Union.PDF
26 The Information Paper, Page 12
27 UN Declaration of the Rights of the Child, 1959, Preamble, emphasis ours. See http://www.unicef.org/lac/spbarbados/Legal/global/General/declaration_child1959.pdf
28 Convention on the Elimination of All Forms of Discrimination against Women, Article 5, emphasis ours
29 Convention on the Elimination of All Forms of Discrimination against Women, Article 12, emphasis ours
30 Section 6 of the Draft Bill
31 Jo Grainger, Testimony before the Victorian Scrutiny of Acts and Regulations Committee, *Review of the Charter of Human Rights and Responsibilities Act 2006*, Jul 21, 2011 http://www.parliament.vic.gov.au/images/stories/committees/sarc/charter_review/transcripts/Jo_Grainger_21-07-11.rtf
32 Consider Royal College of Nursing Australia, *Position Statement on Conscientious Objection,* "Employers and colleagues in turn have a responsibility to ensure that nurses and co-workers are not treated unfairly or discriminated against on account of their conscientious beliefs." http://www.rcna.org.au/WCM/Images/RCNA_website/Files%20for%20upload%20and%20link/policy/documentation/position/Conscientious_objection-under_review_25Nov04.pdf
33 Jo Grainger, Testimony, Victorian SARC, Jul 21, 2011
34 Section 7 of the Draft Bill
35 The Information Paper, Page 13
36 Clause 16, AMA Code of Ethics, https://ama.com.au/codeofethics
37 Jo Grainger, Testimony, Victorian SARC, Jul 21, 2011
38 Section 9 of the Draft Bill
39 Bishop John Harrower quoted in http://www.examiner.com.au/story/1383486/bishops-join-anti-abortion-protests/?cs=12 accessed March 27, 2013
40 Consider *A HealthyChurch... TransfromingLife Anglican Church of Tasmania* Diocesan Vision Document, http://www.anglicantas.org.au/index.php?item=file&target=transformingLIFE, page 6