

Women's Abortion Action Campaign



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To: Senate Standing Committees on Finance and Public Health

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Submission from Women's Abortion Action Campaign to the Senate Standing Committees on Finance and Public Administration regarding the

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

No. , 2013

(Senator Madigan)

Women's Abortion Action Campaign (WAAC), was established in 1972 and in the 40+ years of our work, we have liaised and worked with abortion rights advocates throughout Australia. We utilise that long term knowledge when making our comments on the proposed *Health Insurance Amendment (Medicare Funding for Certain Types of Abortion) Bill 2013*.

WAAC wishes to state at the outset that we object to this proposed Bill and the contents of the associated *Explanatory Memorandum*, as follows:

- 1) At the current time, a rebate is payable for medical services provided under the *Health Insurance Act 1973*, being *Medicare Benefits Schedule* items 16525 and 35643.¹ This rebate is payable for a group of services, including induced termination of pregnancy. There is no mechanism within the Medicare system to determine the reasons for induced terminations of pregnancy². Therefore, any "estimate" of the prevalence of gender selective abortions (or other reasons for termination of pregnancy) can only be based on anecdotal data.

There is no evidence that Medicare funding is being directed towards rebates payable for gender selective abortions, and the *Explanatory Memorandum* itself, accompanying the proposed Bill, does not provide any such evidence.

In an interview in February 2013, former Australian Medical Association (AMA) President Andrew Pesce³, himself an obstetrician and gynaecologist, said there is no credible data on the number of gender based abortions in Australia, or even that such a practice exists. He also said (drawing on his own experience)

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that the number of such procedures would be extremely small and most often related to sex linked chromosomal abnormality.

If it is the situation that a very few gender selective abortions may occur in Australia due to medical issues, limiting access through financial sanctions such as disallowing the Medicare rebate is unlikely to deter those needing these medical procedures, but **will certainly increase distress, hardship and stigma faced by women**. This would be especially deleterious in the case of a wanted pregnancy during which there has been late discovery of serious genetic abnormality requiring pregnancy termination.

- 2) Neither the proposed Bill nor the *Explanatory Memorandum* make clear the mechanism by which sex-selective abortions would be separated from other types of termination of pregnancy, or indeed other medical procedures covered by Medicare Benefits Schedule items 16525 and 35643. Surely the most appropriate persons to be involved in this decision are the woman who is pregnant and the medical practitioner she is consulting? This Bill **is** a 'foot in the door' for interfering in a doctor's right to prescribe the best and most appropriate course of treatment for the individual patient, based on the patient's unique personal circumstances. More importantly, it is a foot in the door to creating yet more barriers for women seeking a termination of pregnancy.
- 3) According to the nationally respected organisation, Children By Choice: "Despite the fact that abortion remains in the Criminal Code or Crimes Act in some capacity in several states, Medicare rebates, or item numbers, are available and widely used for the procedure, although these have remained at the same level for many years and have not kept pace with the increasing costs of providing abortion."⁴ As abortion costs rise, the Medicare rebate provides some relief for women who do not have extensive financial resources, including poor women, women on fixed incomes (such as pensions and government benefits), indigenous women, retired women, immigrant and refugee women, and women from remote regions.

The provision of a rebate via Medicare makes it possible for some doctors to bulk bill women whose circumstances do not enable them to pay up front for the procedure. Restriction of the rebate would disproportionately and inequitably affect those women least able to pay, while having little foreseeable effect on financially secure women.

- 4) The *Explanatory Memorandum* draws on certain reports from the United Nations in support of the proposed Bill. WAAC commends the Bill's proposers for their interest in the work of the United Nations and its agencies in eliminating violence against women globally and locally. We look forward to seeing this interest manifest in an ongoing way ~ perhaps through the advocacy of legislation and funding for services which support Australian women escaping domestic violence, and the care and support of Australian children who suffer abuse and neglect.

In this instance, however, the reports in question have been used in a way which does not acknowledge their full context, and obscures the fact that the United Nations' World Health Organisation recognises access to safe abortion as an important marker for women's health and publishes a technical and policy guide for (national) health systems to assist in this.⁵

In his 2012 report to the United Nations General Assembly, Juan E. Méndez, the United Nations' Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, paid special attention to violations and abuses of women trying to access reproductive health services. He stated that denial of legal abortion or prenatal screening, forced sterilisation or breaches of confidence in patient-doctor relation can amount to torture.⁶

The *Explanatory Memorandum* provided for Senator Madigan's proposed Bill quotes a commitment made by delegates at the 1994 Cairo Population Conference to argue that gender selective abortion in some countries has "drastically skewed the sex ratio", thereby somehow proving the need for the proposed Bill to be adopted in Australia. (No explanation is made of why the other causes of 'gender skewing', such as female infanticide, are not also the subject of proposed Bills, nor of evidence which has shown that at least some of the gender imbalance may be due to under-reporting of female births.⁷).

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5) In general however, this is a long bow to draw. Australian society is not welcoming of gender selective practices, and there is a preference for mixed-gender families⁸ (male and female children). While the *Explanatory Memorandum* claims that gender selective abortions “often occur in [immigrant] communities which originate in those regions” absolutely no evidence of this is offered. WAAC contends that exactly the opposite situation could be the case ~ people choosing to leave their previous homeland and settle in Australia choosing to adopt prevailing cultural mores in their new country, as is common in so many other areas of life.

In countries where women’s rights remain in large part inaccessible and women are not valued culturally, socially or economically relative to men, gender selective abortion, female infanticide and trafficking of girl children are often the result of cultural and societal pressures which favour male children. The solution is clearly not to further remove women’s rights, but to change the cultural, social and economic circumstances in which a female child is unwanted.⁹

The proposers of this Bill, with their assertion that they have a deep concern that women and children be free from violence on a global scale, could do much to further this aim by lending their support to efforts to fund and improve education and opportunities for women and girls, both in Australia and internationally.

6) In a comparable “Western” country, Canada, abortion has not been subject to the criminal code, but has been regulated by the Health Act since 1988. No restrictions exist on gender selective abortion and there is no evidence that gender selective abortion is taking place except in medically appropriate cases.¹⁰ This is a clear example that in a country with a comparable culture and where women’s rights are protected and women’s contribution to society are valued, **laws are not needed to be invented to protect people from things they do not plan to do.**

7) WAAC would like to remind all interested parties that more than 80 per cent of Australians support women’s access to safe abortion¹¹, a figure which has remained unchanged for many years, despite determined efforts by well-resourced and vocal anti-abortion groups and individuals.

WAAC believes that this proposed Bill and the *Explanatory Memorandum* are clearly a statement of values, not a factual document responding to real community concerns.

- The Bill proposes a change to the *Health Insurance Act 1973* for which no need is proven, and no evidence of any need is given.
- The proposed Bill is not specific as to how the information required to effect the proposed changes is to be gathered.
- The Bill would impose an inequitable penalty on people who are financially insecure.
- The Bill is based on the US anti-abortion movement strategy wherein one barrier is created so to open up other possibilities for further barriers to be placed in the path of women when trying to access the simple medical procedure known as termination of pregnancy.
- The Bill opens up an erosion of the doctor/patient relationship and the doctor’s duty to prescribe the best treatment for the individual patient.
- The *Explanatory Memorandum* accompanying the proposed Bill is inaccurate, obscuring the context of documents and the positions of organisations it quotes.
- The *Explanatory Memorandum* accompanying the proposed Bill ignores the experiences of comparable “Western” nations.
- The *Explanatory Memorandum* accompanying the proposed Bill relies on assumptions about immigrant communities for which no evidence is provided.

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- The proposed Bill is out of step with the long term attitudes of the Australian public and does not take into account Australian social practices and standards.
- The proposed Bill ignores community values and concerns.

Australian women choose abortion for many reasons, and current evidence shows that we can trust women to make the decisions that are right for their own lives and circumstances, if they are free from the threat of coercion, stigma and penalty for their decisions.

We urge that this Bill be comprehensively opposed and rejected.

Yours sincerely,

Samantha Campbell, Margaret Kirkby, Lynn Muir and Christine Smith

for

Women's Abortion Action Campaign

References:

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- 4) Medicare funding for abortion. <http://www.childrenbychoice.org.au/working-for-change/campaign-successes/16525>
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- 6) United Nations General Assembly, Human Rights Council, Twenty-second session. Agenda item 3, Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development. Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez. http://www.ohchr.org/Documents/HRCouncil/HRCouncil/RegularSession/Session22/A.HRC.22.53_English.pdf
- 7) Johansson, Sten; Nygren, Olga (1991). "The missing girls of China: a new demographic account". *Population and Development Review* <http://www.jstor.org/discover/10.2307/1972351?uid=3737536&uid=2&uid=4&sid=21101932354563>
- 8) Does child gender affect marital status? <http://andrewleigh.org/pdf/ChildGenderDivorce.pdf>
- 9) Sex-Selective Abortion Bans—A Disingenuous New Strategy To Limit Women's Access To Abortion: Entrenched Preference for Sons Should Be Addressed by Countering Social and Cultural Bias Against Women, Not by Eroding Their Health and Rights <http://www.guttmacher.org/media/nr/2012/05/30/index.html>

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- 10) Sex Selection & Abortion: Canada <http://www.loc.gov/law/help/sex-selection/canada.php>
- 11) Fact sheet: Who supports legal abortion? <http://www.childrenbychoice.org.au/info-a-resources/facts-and-figures/public-opinion-on-abortion>

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