

Opinion: Drag abortion laws out of the 19th century

Caroline de Costa – Professor of Obstetrics and Gynaecology, James Cook University, Cairns

Heather Douglas- Professor of Criminal Law, University of Queensland, Brisbane

Abortion in the 21st century needs to be seen for what it is: a normal medical procedure that 15,000 Queensland women will undergo each year.

If you are a middle-class woman living in Southeast Queensland, access to abortion is not a problem, although it is likely to cost you some hundreds of dollars. But if you are poor or young or live outside major cities you might find it very difficult to access an abortion even for major medical reasons, because it's still unlawful in Queensland and many public hospitals refuse to provide it. So women in much of Queensland have significantly reduced access to this medical procedure compared to their wealthier city-based sisters. Sometimes Queensland women have to go to Victoria to get the service they need. For women experiencing domestic violence good access to abortion might be the difference between staying in a violent relationship and getting out. For others, it may be the difference between getting educated and employed, or not. Good access may mean a woman does not have to go through the deep trauma of giving birth to a full-term baby that dies at birth from fetal complications,

That's why Rob Pyne introduced the two recent bills to decriminalise abortion and establish a regulatory framework for abortion in Queensland. On Friday, the second parliamentary report on the Health (Abortion Law Reform) Amendment Bill 2016 was handed down. Unfortunately, while it identifies problems and roadblocks, it makes little effort to overcome them. It should perhaps be no surprise that the three MPs who could not recommend that the Bill even be debated in Parliament are men who have never had to experience an unwanted pregnancy. We believe that, to quote writer Lindy West, 'people with uteruses have the right to decide what grows inside of their body and feeds on their blood and endangers their life and reroutes their future.'

The inquiry points out the lack of access to support and funds that Pyne as an Independent MP has experienced but fails to suggest solutions. Other states including Victoria, Tasmania, WA, SA and ACT have managed to make the transition into the modern era on abortion; the Northern Territory is about to do so. The current approach to abortion law in Queensland conflicts with guidance provided by the World Health Organisation. Unless we can move forward Queensland will be stuck with 19th century law not consistent with modern medical and abortion practice.

All three sections of the Queensland Criminal Code making an abortion a crime for the doctor, the woman, and any person assisting, should be repealed. Submissions to the two parliamentary committee inquiries from every professional body representing doctors and nurses agree with this. Abortion should then be regulated in health legislation, and it should reflect 21st century community attitudes towards abortion.

Where gestational limits are concerned we support a two tiered approach that is currently working well in Victoria. Up to 24 weeks the decision to have an abortion is one made between a woman and her doctor. Post 24 weeks the

doctor must consult at least one other doctor and both must believe the abortion is in the interests of the woman's mental and/or physical health. In current practice in Queensland these post-24 week abortions are rare and performed almost exclusively by very qualified, experienced and compassionate health professionals in the RBWH.

We agree that health professionals should have a right to refuse to provide or assist with an abortion on the basis of conscientious objection except in an emergency. If abortion is placed in the health legislation doctors who do not abide by these regulations may face deregulation by their professional bodies; they could also still be prosecuted under the Criminal Code when they appear to be guilty of gross negligence.

Mr Pyne's Bill provides for buffer zones within a 50 metre radius of abortion clinics and we support this. While anti-choice protesters should be free to speak, the safety of women and clinic staff should be paramount.

Over the ten months since Mr Pyne introduced his first Bill the two parliamentary committees have worked hard and there is much to admire in both reports. The first committee found that there is majority support in Australia for a woman's right to choose abortion. For half the members of the second committee to suggest that the bills not even be debated is an abuse of the democratic process.

It should be possible for the various ambiguities or omissions identified in the second report to be rectified by the introduction of amendments during the parliamentary debate, and for a robust piece of legislation to result. In particular, pharmacists must be included as health professionals legitimately dispensing abortion medication, and it must be clear that prior to 24 weeks of pregnancy the decision for abortion can be made by one doctor.

We commend Rob Pyne for introducing and campaigning for this legislation as an independent MP. The parliament is being given a unique opportunity to pass legislation of great importance to the health of Queensland women. We hope that they will do so.