



UNICEF NEW ZEALAND Submission on the Abortion Legislation Government Bill 2019

The bill seeks to have abortion services provided like other health services. It would do this by decriminalising abortion, modernising legislation related to abortion, and better aligning the regulation of abortion services with that of other health services.

SEPTEMBER 19, 2019

UNICEF NEW ZEALAND

Author: Belinda Tuari-Toma – Kaiwhakahau

belinda@unicef.org.nz

He Mihi

He Waka eke hoa, Manaaki te katoa – We're all in this together, be kind to all

UNICEF New Zealand welcomes the opportunity to comment on the Abortion legislation Bill. Along with many whānau and families in Aotearoa New Zealand, we would like to see the best health outcomes for women and children through increased safety, protection and care translated in all our health policy and legislative systems and processes.

UNICEF NZ is mandated by the United Nations Assembly to advocate for the protection of children's human rights, to help meet their basic needs and to expand their opportunities to reach their full potential. The UN Convention on the Rights of the Child (UNCRC) ratified by NZ in 1993, was implemented to inform advocacy and uphold children's rights in policy and practice and in law. 2019 marks the 30th anniversary of the adoption of the Convention. Together with our partners in civil society, UNICEF NZ will be amplifying the Convention on and leading up to World Children's Day on 20 November.

When addressing any theory of change that will impact tamariki (whether conceived or not) UNICEF NZ refers to other UN Conventions, in particular the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), The Convention Elimination on all forms of Discrimination Against Women (CEDAW), UN Convention on the Rights of Persons with Disabilities (UNCRPD), Sustainable Development Goals (SDGs), and importantly Te Tiriti o Waitangi. UNICEF is also a member of the Children's Convention Monitoring Group (CMG) that monitors the New Zealand Government's implementation of UNCRC.

It is important that UNICEF NZ applies these international conventions when providing advice and recommendations that will influence any national policy and legislative reform process. Particularly, if at any point there may be direct impacts on the welfare of children including unborn, and their whānau and families.

This submission provides general comments and key recommendations that is informed by the advocacy position of both UNICEF NZ and UNICEF globally.

General Comments

As you are aware, the national and global debate on abortion rights have unintentionally impacted on what matters to our rangatahi/youth of today. Particularly in developing countries, young people have vocalised their opinions around reproductive rights and have called for improved sex education. We can say Aotearoa-New Zealand has been active in advocating these rights, however this does not mean we totally support the government's absolute changes to the Abortion Bill. But, do agree there needed to be changes made, but would seek more recognition and inclusion of international conventions such as UNCRC, CEDAW, UNDRIP given the increased homicide and family violence rates in Aotearoa-New Zealand and the immense diverse historical and cultural backgrounds of our Aotearoa-New Zealand population.

We commend the Government's action to review legal frameworks and policy relating to the rights of health consumers, the regulation of health practitioners and medicines, and the provision of primary health care, including sexual and reproductive health services. Particularly, as these changes appear to improve best practice standards of care, codes of health practice and push to increase informed sex education that addresses holistic impacts

of abortion, such as medical physical harm and mental health and wellbeing, safety and protection for long-term effects.

It is encouraging to see that the Bill ensures rigorous regulated monitoring processes not just at a clinical level but across the sector for any health service and all their workers whether they are paid or unpaid employers and employees, participating in any activities that relate directly and indirectly to abortion.

Any activities relating to a woman seeking or having an abortion must support the holistic needs of the woman, her partner and anyone else assisting the woman's mental health. It has been reported that the relationship between abortion and mental health has been the subject of intense research interest but has had inconsistent results. However, the trend is clear with the correlation between abortion and adverse mental health outcomes. Much research has undoubtedly reported that many feel the systemic bias and shame attached to abortion. Therefore, avoid seeking counsel or psychological support.

Research in New Zealand shows that there can be a causal link between abortion and harm to a woman's mental health; that is, abortion causes adverse mental health outcomes like depression, anxiety, substance abuse, and post-traumatic stress disorder, rather than there being simply a correlation between the two. Some studies consider it likely that 10% of the mental health burden results from abortion, with an increase of emotional distress leading to loneliness, grief, and regret. However, there have also been positive reports from women living in violent relationships who felt relief following an abortion. What we do know nationally and globally is that when an abortion is undertaken for foetal abnormality, the evidence is clear – abortion results in significant mental harm, including persistent grief, depression and post-traumatic stress. It is in the best interest of this bill that women and their whānau and families are made fully aware of all risks that includes the risk of coercion and intimate partner violence.¹

Key Recommendations

- We support the governments reasoning around the legislation needing to be modernised as the current law has not kept up with health and clinical practices and capability developments.
- We agree for all complaints to be independently assessed by the health and disability commissioner and would seek to recommend that the commissioners council of advisers include diverse range of expertise that is not limited to only policy and clinical practitioners but includes those who offer holistic care and support.
- We absolutely support women to exercise their rights in determining the outcome of their health and wellbeing when seeking an abortion. It is important that government seriously invests in on-going care and support for those women before and after any consultation or operational procedure that results in an abortion.
- We support the new section 13 in the bill that ensures a health practitioner must advise a woman about the availability of counselling services if the woman seeks advice or information about whether to continue or terminate a pregnancy; or wishes to terminate a pregnancy; or has terminated a pregnancy. It is important that there is explicit commitment by the government to invest in the public health system to be able to provide wrap-around support systems for any women before, during and after abortion.

¹ See <https://www.familyfirst.org.nz/research/abortion-health-of-women-2018/>

- We agree with the definition and responsibility changes to Clause 16 amends section 2 of the Health and Disability Commissioner Act 1994, which is the interpretation provision. The definition of health services is amended to expressly include reproductive health services and include abortion services within those services (in addition to contraception, fertility, and sterilisation services, which are already included in the definition of health services). It is logical and practically important for the Health and Disability Commissioner Act 1994 to apply to abortion services and that providers of abortion services to comply with the Code of Health and Disability Services Consumers' Rights issued under that Act.
- We would seek more inclusion of ethical understanding and insights on abortion and caution that constant regulatory processes and alignment to the Criminal Act and international conventions is implicitly endorsed, particularly regarding the trafficking of women. Evidence continues to find that abortion has been linked to international trafficking and slavery of women. Any changes, such as decriminalising abortion, must not be seen by perpetrators as giving them a legal right to provide an abortion.

Conclusion

Understandably we acknowledge that modernisation of legislation is necessary and this needs to happen across all health and education sector. Therefore, UNICEF continues to work towards to better understanding the impacts on women, children and their whānau and families and to do this requires engaging on most issues and changes to any policies and legislation that at varying levels may present adverse impacts or encourage positive change. It is UNICEF obligation to collaborate with a range of stakeholders and more specifically at a flax-root level with iwi, hapū, whānau and family groups and communities, if we are truly to advocate on behalf of Aotearoa-New Zealand.

We know that globally and nationally that a combination of factors can increase vulnerability of whānau and families to parent their children and in extreme cases, this may lead to child maltreatment and the subsequent removal of tamariki. These factors include parental problems, challenging child characteristics, family characteristics, and previous experiences of abuse/neglect. Effective interventions to reduce child maltreatment are therefore needed and this bill clearly presents opportunities to ensure that improvements to the regulatory health sector and across the sector as everything interrelates is taken seriously in our judiciary system.