



**Australian Lawyers for Human Rights**

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Dr Mehreen Faruqi MLC

Parliament House

Macquarie Street

Sydney NSW 2000

**By email:** [mehreen.faruqi@parliament.nsw.gov.au](mailto:mehreen.faruqi@parliament.nsw.gov.au)

**Cc:** David Shoebridge MLC

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Dear Dr Faruqi,

Australian Lawyers for Human Rights (**ALHR**) writes to express its strong support for the Abortion Law Reform (Miscellaneous Acts Amendment) Bill 2016 (**the Bill**).

ALHR was established in 1993 and is a national network of Australian solicitors, barristers, academics, judicial officers and law students who practise and promote international human rights law in Australia. ALHR has active and engaged National, State and Territory committees and a secretariat at La Trobe University Law School in Melbourne. Through advocacy, media engagement, education, networking, research and training, ALHR promotes, practices and protects universally accepted standards of human rights throughout Australia and overseas.

Failure to provide safe, legal and accessible abortion services is a violation of fundamental human rights, as has been affirmed by the United Nations Human Rights Committee (UNHRC). Access to safe, legal and affordable abortion services is a personal health matter as well as a matter of sexual and reproductive health rights. On these grounds, ALHR supports the decriminalisation of abortion and the creation of exclusion zones surrounding abortion clinics as a way of protecting and promoting human rights, including the rights to non-discrimination (on the basis of gender, property or other status); not be submitted to cruel, inhuman or degrading treatment; privacy; personal autonomy; and the highest attainable standard of physical and mental health.

The Bill will also protect various other rights under the Convention on the Elimination of Discrimination Against Women (CEDAW), including the right 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. ALHR notes that there is significant and consistent domestic and international jurisprudence that establishes that the right to life is *not* interfered with by the provision of abortion services.

While international human rights jurisprudence is not directly enforceable in Australian Federal and State jurisdictions, ALHR believes that Australian Federal and State governments should comply with international human rights standards and that abortion should be promptly decriminalised in NSW. The UNHRC has found that denying safe access to abortion can violate the right to be free from cruel, inhuman and degrading treatment. The UNHRC has requested that States 'remove punitive measures for women who undergo abortion'. The UNHRC has also stated that the criminalisation of practitioners who provide abortion services also violates women's rights. The CEDAW Committee has specified that 'it is discriminatory for a State party to refuse to legally provide for the performance of certain reproductive health services for women' – this statement would of course include retaining legislation that criminalises the provision of certain reproductive health services.

ALHR also acknowledges the important role of the medical profession in facilitating access to abortion services and therefore commends the requirement that health practitioners disclose if they have a conscientious objection to abortion, as well as refer someone seeking an abortion to a health practitioner who does not have an objection (or a Women's Health NSW centre). This provision also protects the right to freedom of opinion and religion of those medical practitioners who may disagree with the practice.

ALHR notes that, in NSW, bills are not subjected to any human rights scrutiny by Parliament, such as occurs at a Federal level and in Victoria and the ACT. ALHR believes, however, that if such parliamentary scrutiny were available, the Bill would be found to protect and promote human rights. Any interference with human rights, for example the freedom of speech or association, that may arise from establishing exclusion zones, or with freedom of religion, as may be the case where medical practitioners object to the provision of abortion services on religious grounds, is proportionate and reasonable in the circumstances. To cite the recent decision of the UNHRC in the context of Ireland's ban on abortions: 'the balance that the State party has chosen to strike between protection of the foetus and the rights of the woman in this case cannot be justified.'

ALHR commends the Bill and congratulates you for proposing this important step to protect the human rights of those seeking abortions in NSW.

We look forward to hearing more from you and others who promote the decriminalisation of abortion at our event on 23 August 2016, and thank you again for generously agreeing to host it at Parliament House.

Please do not hesitate to ask if there is any further support we can offer.

Warm regards,



Benedict Coyne  
**President**

[Australian Lawyers for Human Rights](#)



Kerry Weste  
**Vice-President**

[Australian Lawyers for Human Rights](#)