



AUSTRALIAN
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25 November 2017

Senator the Hon Michaelia Cash

PO Box 6100
Senate
Parliament House
Canberra ACT 2600

By email: senator.cash@aph.gov.au

Cc: The Hon Malcolm Turnbull MP
By email: Malcolm.Turnbull.mp@aph.gov.au

Dear Minister for Women,

Minister for Women crosses the floor to support Australian Conservatives Party Motion to target White Ribbon for its support of internationally recognised women's reproductive rights.

Australian Lawyers for Human Rights (ALHR) writes to express our grave concerns about your actions in the Senate on 16th November 2017. In voting to support a motion by Australian Conservatives Senator Mr Cory Bernadi designed to criticise White Ribbon for its support of women and girls' reproductive rights, you have acted in a manner that is inconsistent with the internationally recognised human rights of women and girls'. Given you are the Minister for Women this is concerning.

The Minister for Women should be aware that reproductive rights are recognised by international law as belonging to all women and girls everywhere and include the right to access safe and legal abortions.

United Nations human rights bodies have provided States with clear guidance and have emphasised that ensuring access to safe and legal abortion services in accordance with human rights standards is part of a State's obligations to eliminate discrimination against women and girls and ensure their right to health as well as other fundamental human rights.

The United Nations Human Rights Committee has stated that the denial of access to safe and legal abortion is a breach of the fundamental human rights of women and girls, specifically under several articles of the *International Covenant on Civil and Political Rights (ICCPR)*¹ including the right to an effective remedy, prohibition on torture and cruel, inhuman and degrading treatment, right to private life and right of minors to measures of protection.

The Committee on the Elimination of Discrimination Against Women has specified that "it is discriminatory for a State party to refuse to legally provide for the performance of certain

¹ *International Covenant on Civil and Political Rights*, 16 December 1966, 999 U.N.T.S. 171 (entered into force 23 March 1976)

reproductive health services for women.”² The Committee has also more recently requested that States “remove punitive measures for women who undergo abortion” and has stated that the criminalisation of practitioners who provide abortion services also violates women’s rights.³

Similarly, the Special Rapporteur on the right to health has argued that laws criminalising abortion “infringe women’s dignity and autonomy by severely restricting decision-making by women in respect of their sexual and reproductive health”. The Rapporteur has called on States to decriminalise abortion.⁴

The United Nations Committee on Economic, Social and Cultural Rights has also established that the right to health – which comprises reproductive and sexual health – requires health services, including legal abortion services, which are available, accessible, acceptable and of good quality.⁵

The Committee on the Rights of the Child has recommended that “States ensure access to safe abortion and post abortion care services irrespective of whether abortion itself is legal.”⁶

There is significant and consistent domestic and international jurisprudence that establishes that the right to life is not inconsistent with the provision of abortion services. Indeed, the view of the Australian Government is that the right to life under the ICCPR was “not intended to protect life from the point of conception but only from the point of birth.”⁷

White Ribbon is an organisation dedicated to reducing and eliminating violence against women. Their policy position as an organisation that is “pro-choice” and their advocacy for nationally consistent access to safe and legal abortion, in all Australian states and territories, is very clearly entirely consistent with the above international human rights standards.

What is not consistent with them is your actions in support of this motion, particularly given that you are Australia’s Minister for Women.

ALHR expresses supports domestic, regional and international measures that uphold sexual and reproductive health rights, and allow women and girls autonomy over their own bodies and health. Those who seek abortions should not be treated as criminals and nor should organisations devoted to protecting women and girls, especially victims of violence, be targeted for their pro-choice policy positions.

One in three Australian women will have an abortion in their lifetime. The majority of Australians recognise that laws in the jurisdictions that are yet to decriminalise abortion need to change. Data from the Australian Survey of Social Attitudes found that 81% of Australians believe a woman should have the right to choose to have an abortion, with 77% of those who identify as religious also supporting a woman’s right to choose.⁸

We note that Women’s Agenda were advised by a government spokesperson who offered comment on your actions, that the senate motion did not advocate for or against White

² Committee on the Elimination of Discrimination against Women, *General Recommendation 24: Women and Health*, A/54/38/Rev 1 (1999) [11]

³ Concluding observations on Peru CEDAW/C/PER/CO/7-8 (2014), para. 36; Statement on sexual and reproductive health and rights: Beyond 2014 ICPD Review (2014).

⁴ UN Secretary-General, *Right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, A/66/254 (2011), para. 21.

⁵ General Comment 14 (2000) on the right to the highest attainable standard of health, paras. 8, 12. 27

⁶ General Comment 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health para 70

⁷ Mr Peter Arnaudo, Attorney-General’s Department, Hansard - Joint Standing Committee on Treaties Reference: Treaties tabled on 14 May and 4 June 2008 16 June 2008, p.7.

⁸ K Betts “Attitudes to Abortion in Australia: 1972 to 2003” *People and Place* 22, 2004. Available online at http://tapri.org.au/wp-content/uploads/2016/02/v12n4_3betts.pdf

Ribbon's policy position and you do not believe that White Ribbon should not be pro choice. Women's Agenda was told the Government supports women exercising choice in relation to reproductive rights and neither the Minister nor the Government wish to change any laws in any way that would diminish reproductive rights.⁹

However there is no ambiguity in the fact that Senator Bernardi's motion called for senators to express their concerns to White Ribbon Australia about it's advocacy for access to abortion and that you crossed the floor to support the motion.

We would be very appreciative if you are able to reply to us in writing explaining why you chose to vote for the motion and clarifying the Australian Minister for Women's position on the reproductive rights of women and girls.

We look forward to your response.

Yours faithfully



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ALHR was established in 1993 and is a national association 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 specialist thematic committees. Through advocacy, media engagement, education, networking, research and training, ALHR promotes, practices and protects universally accepted standards of human rights throughout Australia and overseas.

⁹ <https://womensagenda.com.au/latest/eds-blog/minister-women-crossed-floor-support-cory-bernardis-anti-abortion-bill/>