

28 September 2015

Dear Members of the Scrutiny of Acts and Regulations Committee,

I am writing to make a submission for your consideration regarding the Public Health and Wellbeing Amendment Act (No Jab no Play) Bill 2015 ('proposed legislation').

As a human rights lawyer I have grave concerns about the ways in which this proposed legislation impinges on the internationally, nationally and locally mandated and accepted human rights of Victorian families. If passed, this legislation would put the Victorian State government in breach of the Victorian Charter of Human Rights and Responsibilities, as well as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), and the Declaration on the Elimination of all forms of Intolerance and Discrimination Based on Religion or Belief, amongst many other local and international human rights instruments. I have delineated a few of the most egregious breaches below.

Your right to recognition and equality before the law (Victorian Charter section 8)

The proposed legislation discriminates against parents who are conscientious objectors to vaccines, those who choose not to vaccinate their children either partially or fully according to the mandated schedule for reasons of deeply held personal, medical, scientific, religious, ethical or other beliefs. These parents are being discriminated against by having their access to early childhood education denied, thus making it prohibitively expensive for them to obtain child care, thereby denying their ability to exercise their right to fully participate in public life by working (article 6, **International Covenant on Economic, Social and Cultural Rights**).

The proposed legislation also impinges on children's rights to equal access to early childhood education (ICESCR article 13 and CRC Article 28)

The children of parents who are financially able to avoid the economic coercion of being denied access to early childhood education services (and therefore economically accessible childcare) will be denied access to the fundamental right of being included in society. They will be disadvantaged by the lack of access to education and socialisation, and be further isolated and marginalised from society. This means they will be at a serious disadvantage when they do start school, not having received the pre-school preparation that their peers have enjoyed, amounting to a form of **ongoing discrimination throughout their education**.

Your right to protection from torture and cruel, inhuman or degrading treatment (Victorian Charter section 10)

People must not be tortured. People must also not be treated or punished in a cruel, inhuman or degrading way. This includes protection from treatment that humiliates a person. **People must not be subjected to medical treatment or experiments without their full and informed consent.**

The proposed legislation violates section 10 of the Charter in multiple ways:

- Being excluded from the essential service of early childhood education on the basis of their deeply and genuinely held beliefs regarding the safety and efficacy of vaccines is **humiliating and degrading** for parents and children.
- Being denied access to the essential service of early childhood education unless they allow their children to be vaccinated is a form of economic coercion that amounts to being **subjected to medical treatments without full and informed consent**.
- Being coerced into allow their children to be vaccinated with newer vaccines that have not been fully tested over a reasonable period of time amounts to being **subjected to medical experiments** without full and informed consent.

There is a related issue that mandates for vaccines by early childhood services and state and federal legislatures is the de facto **practice of medicine without a license**.

Finally, the proposed legislation violates the UN General Assembly's Declaration on the Elimination of all forms of Intolerance and of Discrimination Based on Religion or Belief (1981)

Article 2

1. No one shall be subject to discrimination by any State, institution, group of persons, or person on grounds of religion or other beliefs.

2. For the purposes of the present Declaration, the expression "intolerance and discrimination based on religion or belief" means any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.

There are many people with deeply held religious and other beliefs that mean they cannot in good conscious allow their children to receive some or all vaccines. Discriminating against those parents, and their children, by denying them access to fundamental and universally recognised human rights, such as the rights to work, education, and freedom from cruel, inhuman or degrading treatment, including medical treatment without informed consent, based on those conscientious beliefs, amounts to multiple and unacceptable breaches of Victorian, Australian and International Human Rights.

I deeply and sincerely urge you to recommend that the proposed legislation not be enacted for these reasons. The public health aims of the proposed legislation can be much more effectively and humanely achieved through education and positive incentivisation, rather than punitive measures and unacceptable discrimination and degradation of the rights and freedoms and Victorian parents and children.

Thank you for your conscientious consideration of these critical legal issues.

Yours sincerely,

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