

From: Melbourne Helpers <[REDACTED]>
Sent: Wednesday, 11 November 2015 11:37 AM
To: SARC
Subject: PHWB (Safe Access Zones) Amendment Act 2015

Dear Ms Lizzie Blandthorn
Chair of SARC,

please accept this submission regarding the PHWB (Safe Access Zones) Amendment Act. Our apologies for its late arrival.

We were not aware that we could make a submission to this committee; we note that the committee is still awaiting a submission from the Fertility Control Clinic.

In relation to the above act, we submit the following:

The Bill fails to take into account the implied right to political communication, as interpreted by the High Court, in the Federal Constitution. This matter was not addressed by the Minister in her statement of compatibility.

Where there is a clash of human rights, as in this case, the Act itself instructs lawmakers to pursue the least restrictive solution. The proposed measures are the most restrictive solution imaginable. Helpers are expected to give up all rights to even be seen or heard (without regard to what is seen or heard) within 150 metres of a place that commits abortions. We should also like to point out that this is based on alleged behaviour (following staff/clients into a shop, following staff/clients to a tram stop) that has never taken place: we strenuously deny ever doing any such thing.

The minister claims the law is necessary to protect a right to privacy. We submit that handing someone a pamphlet with general information about the status of the developing human and information about a few of the many risks of the abortion procedure cannot be considered by any reasonable person to be an invasion of privacy.

Instead of ensuring a woman's privacy, the bill isolates women from people who would offer her assistance that no one else can. This bill is not about privacy; it is about isolation.

To comply with the Charter, a bill needs to take reasonable steps to ensure all human rights are respected. The 150 metre zone is unreasonable on the face of it.

a) In the US Supreme Court, in examining a law in Massachusetts, the Court declared that a 35 foot zone (= 10.6 metres) was 'extreme'. This was a unanimous decision by the Court.

b) In Melbourne, the 150 metre zone would encompass (in Victoria Parade) a Greek Orthodox Church and parts of the Australian Catholic University. This means that it would be illegal to discuss abortion while standing outside the church; it would be illegal to have a public display of the development of the unborn child on certain parts of the ACU campus. In Wellington Parade, the zone would extend into the MCG carpark.

The bill fails to understand the nature of the Helpers' work. It treats us as mere protesters and assumes that we could conduct a protest somewhere else. The minister claims that our right to protest would therefore not be unduly burdened. However, we do not accept the label of 'protesters.' We see ourselves as advocates for life and witnesses to the value of human life. This bill is based on the minister's perception of us, not on what we actually do. Our advocacy and witness needs to take place where the abortions are committed. It would be ineffective to practice our work anywhere else. This view is supported by the US Supreme Court in the above mentioned case. The Court described Eleanor McCullen (the petitioner) as someone with a genuine concern for the women who were presenting at the abortion centre, and made the point that she is not a 'protester.'

Because the bill fails to understand the nature of our work, it does not adequately take into account our rights under the Charter. We have a right to publicly express our beliefs, and one of those beliefs is that it is an act of charity to offer a woman a positive alternative to abortion. Consequently, the bill expects us to ignore the plight

of the poor (who in this case could be the woman presenting for an abortion). It is contrary to our religious faith to do this.

We hope that you can consider these points in assessing the compliance of the bill with the Charter.

Yours sincerely,

Ben O'Brien



on behalf of the Helpers of God's Precious Infants