

Submission

on

Human Rights (Children Born Alive Protection) Bill 2022

to the

Community Affairs Legislation Committee

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1. Introduction

On 9 February 2023 the Senate referred the Human Rights (Children Born Alive Protection) Bill 2022 to the Community Affairs Legislation Committee for inquiry and report by 1 July 2023.

Submissions are due by **10 March 2023**.

FamilyVoice Australia is a national Christian voice – promoting true family values for the benefit of all Australians. Our vision is to see strong families at the heart of a healthy society: where marriage is honoured, human life is respected, families can flourish, Australia’s Christian heritage is valued, and fundamental freedoms are enjoyed.

2. The right to life

2.1. *Universal Declaration of Human Rights*

The right to life is the most fundamental of all human rights because without it all other rights are rendered meaningless. The right to life is enshrined in Article 3 of the Universal Declaration of Human Rights.

Everyone has the right to life, liberty and security of person.¹

The right to life is also enshrined in Article 6 of the International Covenant on Civil and Political Rights (ICCPR):

- 1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.*
- 2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.*
- 3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.*
- 4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.*
- 5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.*
- 6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.²*

2.1. *Convention on the Rights of the Child*

Article 6 of the UN Convention on the Rights of the Child, to which Australia is a signatory, protects the right to life of the child:

- 1. States Parties recognize that every child has the inherent right to life.*

*2. States Parties shall ensure to the maximum extent possible the survival and development of the child.*³

Article 3(1) provides that:

*In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.*⁴

It is important to note that these rights do not simply apply to children post birth. The preamble to the Convention stresses that legal protections apply to children both before and after birth:

*Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth"...*⁵

Any change to laws in Australia should give primary consideration to, and be consistent with, the rights of the child as enunciated in this international instrument.

3. Abortion survivors

A number of abortion survivors have told their story of surviving this barbaric procedure.

Gianna Jessen

Gianna Jessen's mother was 7 months pregnant when she visited Planned Parenthood for a late-term saline (installation) abortion. A solution (which can include saline, digoxin, potassium chloride and prostaglandin) is injected into the mother's uterus and into the baby. This poison burns the baby inside and out, including the outer layer of his or her skin. After an hour, the baby is assumed to be dead and the mother delivers the child the following day.

Jessen survived the horrendous procedure.⁶ As the abortionist was absent, Gianna went straight to hospital. Severe loss of oxygen during the failed abortion led to a diagnosis of cerebral palsy. However, by age four, Gianna needed only the assistance of a walker, leg braces, and her foster mother. Today, Jessen walks with only a small limp. She acts as a voice for the voiceless and hope for the hopeless through her pro-life activism.

"Death did not prevail over me... and I am so thankful!", Gianna Jessen proclaimed.

Melissa Ohden

Melissa Ohden's mother was 19 when she opted for a saline abortion.⁷ She believed she was under five months pregnant, but Melissa was truly seven months old in the womb.

After being adopted, Melissa did not know of her history of survival until she was 14. She ultimately found her biological parents and forgave them for attempting to abort her. Melissa has since founded the Abortion Survivors Network, which seeks to educate the public about failed abortions and survivors while providing emotional, mental, and spiritual support to abortion survivors. There are now over 210 abortion survivors in this network.

Claire Culwell

Tonya Glasby was only 13 when she conceived Clare Culwell as one of a set of twins, leading Tonya's parents to pressure for an abortion at five months gestation.⁸ Doctors ended the life of one baby, not realising Tony was carrying two. After the procedure Tonya continued to feel a baby kicking. By this time doctors deemed any further abortion procedure was medically risky.

At seven months gestation Clare Culwell was born with dislocated hips and club feet, yet thrived with her adopted family. At age 20 she discovered her birth mother Tonya at a friend's house, where she forgave Tonya, and thanked her for sparing her life.

"This is what it looks like to survive an abortion. My hips were dislocated, I had club feet, and I was in body casts to correct what the abortion had done. But I still deserved to live," Claire Culwell explained.

Josiah Presley

Josiah Presley's mother unsuccessfully attempted to abort him at two months.⁹ He thrived despite a maimed left arm from the failed abortion and was adopted out of South Korea into a loving home in the USA. When Josiah later heard about his mother's attempt to take his life, he struggled with inner anger towards her. But as he grew in his understanding of Jesus' forgiveness for his wrongs against God, Josiah ultimately forgave his birth mother.

Nik Hoot

Nik Hoot was born with parts of both legs missing and underdeveloped fingers after a failed abortion in Siberia, Russia.¹⁰ Christian couple Marvin and Apryl Woodburn adopted him after being convinced by a priest that people with disability are to be loved and respected like anyone else.

Nik received his first prosthetic legs at the age of two and learned to walk on his own after two weeks. He eventually learned to play football, baseball, basketball and is now a wrestling champion.

"There are some things I can't do, but I'll still try, I'll learn how to do it," said Nik Hoot.

4. Infanticide

Twenty-seven babies aged 20 weeks or more survived abortions in Queensland in 2015, the Queensland Minister for Health and Minister for Ambulance Services Cameron Dick revealed.¹¹

Shockingly, *ABC News* reported:

*Queensland Health confirmed that in such cases, care is not rendered to the baby after a decision to terminate is made and it is left to perish in the clinic.*¹²

In his response to a question on notice, the Queensland Minister for Health revealed the following abortion live births from 2005 until 2015:¹³

Calendar year	Termination with live birth outcome
2005	8
2006	16
2007	20
2008	15

2009	13
2010	17
2011	20
2012	20
2013	23
2014	25
2015	27

These figures clearly show more than a tripling of the number of babies surviving abortion since 2005. The *Daily Mail Australia* reported the Queensland Health Minister as saying the number could be much higher when non-confirmed incidents are taken into account.¹⁴

A parliamentary inquiry into laws governing abortion in Queensland confirmed that babies who survive abortion are not rendered life sustaining care (emphasis added):

The committee asked clinicians about late-gestation abortions and live deliveries. Professor Ellwood explained that Queensland Health policy requires discussion of foeticide with parents above 22 weeks gestation,

*“...but not all women will accept that as part of the process and there is no requirement for them to accept that. Somebody may choose to terminate a pregnancy for what is essentially a lethal foetal abnormality such as anencephaly or trisomy 18 or trisomy 13 and choose not to have a foeticide procedure done and following induction of labour that baby is very likely to be born alive... **It is not failed termination of pregnancy, it is just the way that the process was carried out and the choice that that woman made.**”*

Several witnesses noted that any sign of life must be recorded as a live birth in Queensland. In response to committee questions about Queensland Health’s procedure to assist when there is a live birth following a late-gestation termination, Professor Kimble said that compassionate palliation would be provided.

“The paediatricians, our neonatal colleagues, would be there to provide care and, generally speaking, would provide pain relief for the baby and stay with it. It depends on gestation and whether it is one gasp or whether it is a baby that might demise in 30 minutes. Whatever the situation may be, the neonatologists generally tend to be there to provide what we would call palliative care, and that is reducing pain and suffering for the baby.”

***Professor Kimble clarified that following a termination there is generally no resuscitation, but pain relief is provided.**¹⁵*

The law should not turn a blind eye to infanticide. Laws in Australia should be strengthened to provide more protection for babies that survive abortion to ensure they are provided with care and not left to die.

In providing pain relief, the clinicians are acknowledging that the child is suffering and in any other situation would be assisted with a view to life.

The Bill protects survivors of abortion by requiring they receive the same medical treatments as any other person. The Bill is a sensible proposal and should be supported.

Recommendation 1

The Human Rights (Children Born Alive Protection) Bill 2022, which requires health professionals to ensure that all babies born alive are provided with appropriate neonatal care to preserve the child's life, should be supported.

5. Conclusion

The right to life is the most basic and fundamental of all human rights. The right is recognised in the United Nations Declaration of Human Rights and in the International Covenant on Civil and Political Rights (ICCPR).

The *Human Rights (Children Born Alive Protection) Bill 2022* addresses the horrific reality that children born alive following a “failed” abortion are being left to die.

The Bill is a sensible proposal and should be supported.

6. Endnotes

- ¹ The Universal Declaration of Human Rights, Article 3, http://www.claiminghumanrights.org/udhr_article_3.html
- ² International Covenant on Civil & Political Rights, Article 6, <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>
- ³ International Covenant on Civil & Political Rights, Article 6, <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>
- ⁴ UN Convention on the Rights of the Child, Article 3(1), <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ⁵ UN Convention on the Rights of the Child, <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- ⁶ “One of the best Pro-life speeches EVER! Gianna Jessen abortion survivor Full video”, <https://www.youtube.com/watch?v=hOWMmx6eBjU>
- ⁷ “Sanctity of Human Life- Melissa Ohden”, https://www.youtube.com/watch?v=ebdYlyiu_9s
- ⁸ “Sanctuary of Hope; Claire's Story”, https://www.youtube.com/watch?v=qfygIV_C6PU
- ⁹ “National Convention for Life: Josiah Presley tells how he survived an abortion”, <https://www.youtube.com/watch?v=vvgLP8Dzbxo>
- ¹⁰ “Woodlan's Warrior: The Nik Hoot Story”, <https://www.youtube.com/watch?v=-9eMIexNNo4>
- ¹¹ Question on Notice by Mark Robinson MP to Hon Cameron Dick, No. 779, asked on 11 May 2016, <https://www.parliament.qld.gov.au/documents/tableOffice/questionsAnswers/2016/779-2016.pdf>
- ¹² Josh Bavas, “Rise in Queensland babies surviving late-term abortions and being left to die, figures show”, ABC News, 15 June 2016, <http://mobile.abc.net.au/news/2016-06-15/babies-of-late-terminations-left-to-die-without-care/7512618>
- ¹³ Question on Notice by Mark Robinson MP to Hon Cameron Dick, No. 779, asked on 11 May 2016, <https://www.parliament.qld.gov.au/documents/tableOffice/questionsAnswers/2016/779-2016.pdf>
- ¹⁴ Liam Quinn, “At least 27 babies SURVIVED being born during late term abortions and were left to die in clinics in Queensland last year”, *Daily Mail Australia*, 15 June 2016, www.dailymail.co.uk/news/article-3642611/At-27-babies-survived-late-term-abortions-Queensland-year-left-die.html#ixzz4BhuQpmJA
- ¹⁵ Abortion Law Reform (Woman's Right to Choose) Amendment Bill 2016 and Inquiry into laws governing termination of pregnancy in Queensland, Report No. 24, 55th Parliament, Health, Communities, Disability Services and Domestic Family Violence Prevention Committee, August 2016, p69, <http://www.parliament.qld.gov.au/documents/tableOffice/TabledPapers/2016/5516T1337.pdf>