

Liberty Victoria - Victorian Council for Civil Liberties Inc

Submission to the Senate Community Affairs Committee

Inquiry into the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for Approval of RU486) Bill 2005

Liberty Victoria – Victorian Council for Civil Liberties Inc
Level 4, 360 Little Bourke Street
Melbourne Victoria 3000
Ph: 9670 6422
Fax: 9670 6433

Contact persons:

Brian Walters
President

Anne O'Rourke
Assistant Secretary

Liberty Victoria - Victorian Council for Civil Liberties Inc

**Submission to the Senate
Community Affairs
Committee**

**Inquiry into the Therapeutic Goods Amendment
(Repeal of Ministerial responsibility for Approval
proposed of RU486) Bill 2005**

1. Introduction

1.1 Liberty Victoria - The Victorian Council for Civil Liberties Inc - is an independent non-government organisation which traces its history back to the first Australian civil liberties body established in Melbourne in 1936. Liberty is committed to the defence and extension of human rights and civil liberties. It seeks to promote Australia's compliance with the rights and freedoms recognised by international law.

1.2 We welcome this opportunity to comment on the Therapeutic Goods Amendment (Repeal of Ministerial responsibility for approval of RU486) Bill 2005. Liberty Victoria supports the Democrats Bill proposing to withdraw responsibility from the Minister to make a decision regarding the availability of RU486. We strongly believe that such decisions should be made by an independent scientific committee and not by a Minister who has no medical expertise and whose decision is governed by his own religious beliefs in respect of women's reproductive rights. Indeed, the Democrats Bill is not about approving the availability of RU486, but rather to allow the appropriate body, the Therapeutic Goods Administration (TGA), to do the job it is required to do, and to remove the Minister's right of veto.

1.3 While Liberty Victoria supports freedom of religion and a person's right to make free decisions in their choice of religious faith, we do not believe that personal religious belief should govern public policy decisions. Ministers do not have a right to impose their religious views on the public nor should the Parliament allow

them to do so. As both the Prime Minister and the Treasurer have repeatedly stated in recent times, Australia is a secular society not a theocracy, and so public policy decisions must be based on rational, scientific and independent inquiry, within the framework of Australia's commitments and obligations under international human rights law. In this instance, the applicable international obligation is found in Article 16, CEDAW, which states that States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women that:

The same rights 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.

- 1.4 In a liberal democracy it is not the role of the Government to intervene directly into the most personal decisions of families or individuals in respect of their consensual sexual activity nor into decisions regarding how many children they wish to have, nor how often they should have children. Such interventions are more appropriate to the family policies of totalitarian regimes.¹

2. Medical expertise and RU486

- 2.1 It is evident from reading the transcripts of the hearings thus far that the majority of medical experts, other than those representing religious organizations, support the availability of RU486. Many of the studies supported by opponents have under

¹ See Dagmar Herzog, (2005) *Sex after Fascism: Memory and Morality in Twentieth-Century Germany*, Princeton University Press; Andrea Slane (2001), *A Not So Foreign Affair: Fascism, Sexuality, and the Cultural Rhetoric of American Democracy*, Duke University Press; Victoria de Grazia, (1993) *How Fascism Ruled Women*, [Italian Fascism], University of California Press; Carl Ipsen, (1998) 'Population Policy in the Age of Fascism: Observations on Recent Literature', *Population and Development Review*, Vol. 24; Renate Bridenthal, Atina Grossman & Marion Kaplan, eds, (1984) *When Biology becomes Destiny: Women in Weimar and Nazi Germany*, Monthly Review Press, New York; Lorenzo Benadusi, (2004), 'Private life and public morals: fascism and the 'problem' of homosexuality', *Totalitarian Movements & Political Religions*, Volume 5, Number 2 / Autumn; Courtney W Howland, (1999) *Religious Fundamentalisms and the Human Rights of Women*, Palgrave MacMillan; Miranda Pollard (1998), *Reign of Virtue: Mobilizing Gender in Vichy France*, University of Chicago Press; Mabel Berezin (1997) *Making the Fascist Self: The Political Culture of Inter-War Italy*, Cornell University Press (examines the fascist cult of 'the family' as developed in Mussolini's Italy); Alexander De Grand, (1976) 'Women under Italian Fascism', *The Historical Journal*, 10(4): 947-968.

critical examination been shown to be grossly exaggerated or the material has been used selectively. For example, a recent study by David Fergusson linked abortion to mental health problems. This research was promoted vigorously by anti-choice religious groups. However, it failed to take into account other studies using a much larger sample base that initially found a similar association until partner violence and other variables were factored in, at which point termination of pregnancy did not rate as a contributor to mental health problems.² Indeed numerous studies over a 20 year period have found that there is no basis for supporting the argument that abortion causes severe physical or mental health threats (see Adler, et al 1990, 1992; AMA Council on Scientific Affairs 1992; Denious & Russo 2000; National Academy of sciences, 1975; Russo 1992 & Schwartz 1886).³ This was also confirmed in a two-year study by Major, et al, concerning the psychological effects of abortion that found that the majority of women do not experience any mental health problems or regrets two years after abortion.⁴ Another study by Daggundertaken in 1991, found that up to 98% of wimen who had abortions had no regrets and who choose the same course of action again. ⁵ The American Psychiatric Association, despite the repeated assertions of anti-choice proponents, does not recognize the so-called ‘post abortion syndrome’, and found that all the

² Russo, Nancy Felipe & Jean E. Denious. (2001). "Violence in the Lives of Women Having Abortions: Implications for Practice and Public Policy." *Professional Psychology: Research and Practice*, 32(2), 142-150; see also Planned Parenthood (2001), *The Emotional Effects of Induced Abortion*, <http://www.plannedparenthood.org/pp2/portal/files/portal/medicalinfo/abortion/fact-010600-emoteff.xml>;

³ American Medical Association, Council on Scientific Affairs. (1992). Induced termination of pregnancy before and after *Roe v. Wade*: Trends in the mortality and morbidity of women. *Journal of the American Medical Association*, 268, 3231–3239; Adler, N. E., David, H. P., Major, B. N., Roth, S. H., Russo, N. F., & Wyatt, G. E. (1990). Psychological responses after abortion. *Science*, 248, 41–44; Adler, N. E., David, H. P., Major, B. N., Roth, S. H., Russo, N. F., & Wyatt, G. E. (1992). Psychological factors in abortion: A review. *American Psychologist*, 47, 1194–1204; Denious, J. E., & Russo, N. F. (2000). The socio-political context of abortion and its relationship to women's mental health. In J. Ussher (Ed.), *Women's Health: Contemporary International Perspectives* (pp. 431–439). London: British Psychological Society; National Academy of Sciences. (1975). *Legalized abortion and the public health*. Washington, DC: National Academy Press; Russo, N. F. (1992). Psychological aspects of unwanted pregnancy and its resolution. In J. D. Butler & D. F. Walbert (Eds.), *Abortion, medicine, and the law* (4th ed., pp. 593–626). New York: Facts on File; Schwartz, R. A. (1986). Abortion on request: The psychiatric implications. In J. D. Butler & D. F. Walbert (Eds.), *Abortion, medicine, and the law* (3rd ed., pp. 323–340). New York: Facts on File.

⁴ Major, Brenda, et al. (2000). "Psychological Responses of Women after First-Trimester Abortion." *Archives of General Psychiatry*, 57(8), 777-784.

⁵ Dagg, Paul K. B. (1991). "The Psychological Sequelae of Therapeutic Abortion — Denied and Completed." *American Journal of Psychiatry*, 148(5), 578-585.

studies that purport to prove its existence contained methodological flaws that rendered the conclusions non-applicable beyond specific subjects, that is that they cannot be generalized or applied to all women.⁶

2.2 Where emotional problems did occur it was in a small minority of women which studies have found were related to unstable living conditions (conflict with parents), unstable and/or violent relationship with partners, partner abuse, and unsupportive environment, those with positive relationships and partners and parents who supported their position experience far less distress and do not suffer regret over their decision.⁷ These studies recognize that terminations can cause mental anguish and distress to some women, however, the percentage is statistically negligible when compared with other factors. For example, Adler, et al, found that there can be immediate mild but transient postoperative depressive symptoms in less than 20% of women after terminations,⁸ however, *similar symptoms occur in up to 70% of women immediately following childbirth.*⁹ Cases where women exhibit real mental distress and psychological responses are those involving adoption not termination. One study found that 95% of birth mothers who have consented to adoption experience grief, loss and ongoing mental distress, while women who had undergone first-trimester abortions had assimilated the termination experience within a short timeframe without any ongoing distress.¹⁰

⁶ American Psychiatric Association. (1994). Diagnostic and Statistical Manual of Mental Disorders (DSM-IV-TR), 4th ed. Washington, DC: American Psychiatric Association.

⁷ Russo, Nancy Felipe & Jean E. Denious. (2001). "Violence in the Lives of Women Having Abortions: Implications for Practice and Public Policy." *Professional Psychology: Research and Practice*, 32(2), 142-150; Russo, Nancy Felipe & Amy J. Dabul. (1997). "The Relationship of Abortion to Well-Being: Do Race and Religion Make a Difference-" *Professional Psychology: Research and Practice*, 28(1), 23-31; Petersen, P. (1981). "Psychological Alterations Following Induced Abortion." *Munchener Medizinische Wochenschrift*, 43(20), 1105-1108; David, Henry P., et al. (1985). "Postpartum and Postabortion Psychiatric Reactions." In Paul Sachdev, ed., *Perspectives on Abortion* (pp. 107-116). Metuchen, N. J.: Scarecrow Press; Zeanah, Charles H., et al. (1993). "Do Women Grieve After Terminating Pregnancies Because of Fetal Anomalies- A Controlled Investigation." *Obstetrics and Gynecology*, 82(2), 270-275.

⁸ Adler, Nancy E., et al. (1990). "Psychological Responses after Abortion." *Science*, 248(4951), 41-44.

⁹ Ziporyn, Terra. (1984). "'Rip van Winkle Period' Ends for Puerperal Psychiatric Problems." *Journal of the American Medical Association*, 251(16), 2061-2063 & 2067

¹⁰ Sachdev, Paul. (1989). *Unlocking the Adoption Files*. Lexington, MA: Lexington Books; and Sachdev, Paul. (1993). *Sex, Abortion and Unmarried Women*. Westport, CT: Greenwood Press.

2.3 The other issue raised by opponents that has received publicity in recent times concerns the death of four women in California after taking RU 486. However, this connection made by opponents has now been discredited. Initially US Food and Drug Administration officials issued a warning on the agency's Web site after they discovered that the deaths of four California women who took the drug were caused by *C. sordellii*, a rare and deadly bacterium. Since that time the New England Journal of Medicine which examined, and reported on the issue, found that there was no direct link between the deaths of the four women, who received prescriptions at different clinics throughout the state between 2003 and 2005. The researchers note that additional data need to be gathered to "evaluate ... possible association between medical abortion and *C. sordellii* infections," adding that the four cases "demonstrate that serious infection can occur after medically induced abortion, much as it can occur after childbirth, spontaneous abortion and surgical abortion." They add the cases point to a "need for physician awareness of this syndrome". In an accompanying editorial, Michael Greene, a Professor of Obstetrics, gynecology and reproductive biology at Harvard Medical School, -- said that the four California deaths are "tragic," but in comparison with the hundreds of thousands of women who are estimated to have used Mifeprex safely, they "remain a small number of rare events."¹¹

2.4 The bulk of medical evidence does not support the hysterical assertions from some political and religious quarters that RU 486 is hazardous to women's mental or physical wellbeing. It has been recently asserted by Senator Joyce that "RU486 is 10 times more deadly than a surgical abortion".¹² This is nonsense. It is unsupported by any scientific inquiry. It is so disingenuous as to call the Senator's integrity into question. For Senator Joyce has publicly stated on numerous occasions that his views on terminations are based on religious beliefs (the Minister for Health and other Senators have stated likewise). Many of the Senators (Boswell,

¹¹ The New England Journal of Medicine, (2005) December 1, volume 353, number 22.

¹² Barnaby Joyce certainly pulls no punches in an interview
<<http://www.catholicweekly.com.au/article.php?classID=3&subclassID=9&articleID=1559&class=Features&subclass=A%20conversation%20>>

McGauran, Fielding and Joyce) have repeatedly asserted during the hearings that their main concern is the health and wellbeing of women. This is also disingenuous. All these Senators have publicly declared their opposition to terminations and all have based that opposition on religious beliefs. In addition, it is hypocritical to assert a concern in this regard when maintaining silence on other, far greater health issues. If health concerns were their honest priority then those same Senators would have to publicly call for an outright ban on cigarettes, and much more stringent on alcohol. For these are responsible for tens of thousands of deaths a year. In the face of calls for the Minister of Health to stop the advertising of junk food during children's programming, to address the obesity crisis, the Minister refused. He claimed, implausibly, that it was an issue for parents not for government. This hypocrisy was also evident in Senator McGauran's remarkably sensitive response to Dr Christine Tippett's evidence stating Viagra was a much more dangerous drug than RU 486. According to the US Food and Drug Administration (FDA) there has been a loss of eyesight in one eye in some men after taking Viagra. The condition is known as non-arteritic anterior ischemic optic neuropathy (NAION). NAION causes a sudden loss of eyesight because blood flow is blocked to the optic nerve. As with the four deaths of women in California, no direct link has been made, but the FDA is sufficiently concerned to issue warnings on its home page. In addition, the FDA warns men who are over 50 years, have diabetes, heart disease, high blood pressure, high cholesterol, smoke and already have eye problems that taking Viagra may increase the risk of NAION.¹³ If the Senators were honest they would demand that it be recalled until it can be proven that it is 100% safe. Given FDA's warnings, the Senators should be particularly concerned about the ease with which Viagra can be obtained. On any given day one's email is bombarded by advertisements for Viagra to be obtained over the internet unsupervised by a medical practitioner. To fail this test suggests that women's choices are the only concern for these Senators.

¹³ US Food and Drug Administration, Patient Information Sheet, Sildenafil citrate (marketed as Viagra), <http://www.fda.gov/cder/drug/InfoSheets/patient/sildenafilPIS.htm>

3. Conclusion

As Russo and Denious argue, “ethical research to inform public policy requires accurate presentation of findings”¹⁴, selective use of research to support one’s own personal views is dishonest and has no place in determining public policy in a democracy. Likewise, religious belief should not be used as a basis for public policy. In a democracy, people are free to choose their religious belief, and just as people have a right to freedom of religion they also have a right to freedom *from* religion, the views of the former cannot be imposed on the latter. In personal decisions, “whether a woman is seeking an abortion or deciding to pursue costly, invasive infertility treatments, she must assess the costs and benefits of her options and deserves the best information available to inform this personal decision”.¹⁵ Such information must be sourced from *independent* medical inquiry. Liberty Victoria notes that the view of many of the Senators – who have no medical training or expertise – is not supported by their Coalition politicians who have medical degrees. GPs Dr Mal Washer and Brendan Nelson, are both on the record as supporting women’s right to choose and stated that they believe the current arrangements are not in the best interests of Australian women. As Dr Washer said, ‘this is about giving women in an industrialised country like Australia the same choice or option of therapy or management of this extremely difficult problem as women in other industrialised countries already have’.¹⁶ Washer further stated that the Health Minister is ‘not a trained medical doctor and he’s not got the clinical acumen of groups of people like you have in the Therapeutic Goods Administration’.¹⁷ Liberty Victoria support Dr Washer’s statement, we believe the TGA is the appropriate body to make a ruling on the availability of RU 486. We therefore support the Democrat’s Bill.

¹⁴ N.Russo & J.Denious, (2005) *Journal of Social Issues*, Vol 61, No 1, p 187.

¹⁵ *Ibid*, p 186.

¹⁶ Dr Mal Washer, 7.30 Report, 21/11/2005.

¹⁷ *Ibid*, ABC Radio, AM, 17 November 2005.

Liberty Victoria – Victorian Council for Civil Liberties Inc
Level 4, 360 Little Bourke Street
Melbourne Victoria 3000
Ph: 9670 6422
Fax: 9670 6433

Contact persons:

Brian Walters
President

Anne O'Rourke
Vice President