

House of Representatives

Supplementary Order Paper

Thursday, 5 March 2020

Abortion Legislation Bill

Proposed amendment

Harete Hipango, in Committee, to move the following amendment:

Clause 7

In *clause 7*, before the *cross-heading before new section 19* (page 8, before line 29), insert:

Cultural considerations

18 Cultural considerations to be recognised

- (1) Any organisation that is accorded a duty or responsibility under this Act (a **responsible organisation**) must perform those duties or responsibilities in a manner that recognises and provides a practical commitment to the principles of the Treaty of Waitangi (te Tiriti o Waitangi).
- (2) The performance of duties or responsibilities in accordance with **subsection (1)** includes that a responsible organisation must ensure that—
 - (a) the wellbeing of a woman requesting abortion services is at the centre of decision making that affects that woman, and, in particular,—
 - (i) the woman's wellbeing should be protected by recognising her whakapapa and the whanaungatanga responsibilities of her family, whānau, hapū, iwi, and family group:
 - (ii) decisions should be made and implemented appropriate to tikanga Māori or the ethnic origins, social atti-

- tudes, or customs or spiritual beliefs of the woman requesting abortion services whilst accounting for the recognition of her whakapapa—family, whānau, hapū, iwi, and family group:
- (iii) a holistic approach should be taken that sees the woman requesting abortion services as a whole person, which includes, but is not limited to, the woman's—
 - (A) whakapapa; and
 - (B) cultural identity; and
 - (C) gender identity; and
 - (D) disability (if any); and
 - (E) age:
 - (iv) endeavours should be made to obtain the support of that woman requesting abortion services for the exercise or proposed exercise, in relation to that woman requesting abortion services, of any duty or responsibility under this Act:
 - (v) decisions about a woman with a disability requesting abortion services—
 - (A) should be made having particular regard to the woman's experience of disability and any difficulties or discrimination that may be encountered by the woman requesting abortion services because of that disability; and
 - (B) should support the woman's full and effective participation in society:
 - (b) the woman's place within her family, whānau, hapū, iwi, and family group are recognised, and, in particular,—
 - (i) it should be recognised that the primary responsibility for caring for and nurturing the wellbeing of the woman requesting abortion services lies with her family, whānau, hapū, iwi, and family group:
 - (ii) the effect of any decision on the woman's relationship with her family, whānau, hapū, iwi, and family group and her links to whakapapa should be considered:
 - (iii) the sense of belonging, whakapapa, and the whanaungatanga responsibilities of the family, whānau, hapū, iwi, and family group of the woman requesting abortion services should be respected:
 - (iv) the relationship between the woman requesting abortion services and her family, whānau, hapū, iwi, and

- family group should, wherever possible, be maintained and strengthened:
- (v) a woman's family, whānau, hapū, iwi, and family group should participate in decisions wherever possible, and regard should be had to her views:
 - (vi) endeavours should be made to obtain the support of the kaitiaki, caregivers, welfare guardians, or other persons having the care of the woman requesting abortion services for the exercise or proposed exercise, in relation to that woman requesting abortion services, of any duties or responsibilities under this Act:
- (c) the place of the woman requesting abortion services within her community is recognised, and, in particular,—
- (i) how a decision affects the stability of that woman requesting abortion services (including the stability of her connections to community and other contacts), and the impact of disruption on this stability should be considered:
 - (ii) networks of, and supports for, that woman requesting abortion services and her family, whānau, hapū, iwi, and family group that are in place before the power is to be exercised should be acknowledged and, where practicable, utilised.
- (3) In addition to the requirements of **subsection (2)**, every responsible organisation must—
- (a) adopt and deliver policies and practices that have the objective of reducing disparities by setting measurable outcomes for Māori who seek services under this Act:
 - (b) adopt and deliver policies, practices, and services that have regard to tikanga Māori and the values and responsibilities of whanaungatanga related to whānau, hapū, and iwi:
 - (c) develop strategic partnerships with iwi and Māori organisations, including iwi authorities, in order to—
 - (i) provide opportunities to, and invite innovative proposals from, those organisations to improve outcomes for Māori who seek services under this Act:
 - (ii) set expectations and targets to improve outcomes for Māori who come to the attention of the responsible organisation:

- (iii) enable the robust, regular, and genuine exchange of information between the responsible organisation and Māori:
 - (iv) provide, and regularly review, guidance to persons discharging functions under this Act to support cultural competency as a best-practice feature of the responsible organisation.
- (4) One or more iwi or Māori organisations may invite the responsible organisation to enter into a strategic partnership under **subsection (3)(c)**.
- (5) The responsible organisation must report to the public at least once a year on the measures taken in performing its duties and responsibilities in relation to improving outcomes for Māori under this Act.
- (6) A copy of each report under **subsection (5)** must be published on an Internet site maintained by the responsible organisation.

Explanatory note

This Supplementary Order Paper amends *clause 7* of the Abortion Legislation Bill by inserting *new section 18*. It requires that organisations directly and indirectly involved in the provision of abortion services do so in a manner consistent with the Treaty of Waitangi (te Tiriti o Waitangi).

Relevant context includes that adverse health outcomes already suffered by Māori are deeply troubling, both in the context of the status of tangata whenua as a partner to the Treaty of Waitangi (te Tiriti o Waitangi) and because of overrepresentation that would be troubling in relation to any ethnic group.

This SOP draws upon provisions in other pieces of legislation, including the Oranga Tamariki Act 1989 and the Mental Health (Compulsory Assessment and Treatment) Act 1992. The intention of all these provisions is to attempt to ensure the safety, protection, and inclusion of the vulnerable person with appropriate precautions and safeguards.

More particularly, this SOP:

- highlights the need for practical commitment to the principles of the Treaty of Waitangi (te Tiriti o Waitangi) (at *subsection (1)*):
- provides guidance about what it means for a responsible organisation to ensure that a woman's wellbeing is at the centre of decision making, for example by recognising whakapapa and whanaungatanga responsibilities (at *subsection (2)*):
- stipulates that responsible organisations must also adopt and deliver certain policies and practices, along with developing strategic partnerships with various Māori organisations that have the objective of reducing disparities by set-

ting measurable outcomes for Māori who seek services under this Act (at *subsection (3)*):

- affirms the right of Māori organisations to invite responsible organisations to enter into strategic partnerships (at *subsection (4)*):
- establishes reporting requirements in relation to improving outcomes for Māori under this legislation (at *subsection (5) and (6)*).