

Knowledge of current abortion law and views on abortion law reform: a community survey of NSW residents

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Women's access to abortion is regulated according to different legislation in each Australian state and territory.¹ In most states and territories, criminal laws have been reformed to provide statutory explanations of the circumstances in which abortion is legal. In the Australian Capital Territory (ACT) only, abortion has been removed completely from criminal law and is managed under health-related laws. In New South Wales (NSW) and Queensland (QLD), however, the legal situation remains ambiguous and unlawful abortion remains a crime in both states.

In NSW, unlawful abortion is a criminal offence for a woman and for her doctor (or person administering the intervention) and is punishable by up to 10 years jail (*Crimes Act 1900* [NSW] Part 3 Division 12).² Subsequently, case law has established that abortion is lawful in NSW if the doctor has an honest opinion that continuing the pregnancy would be seriously harmful to the health of the woman.¹ This test of lawfulness remains the basis on which abortion may be provided in NSW. Several efforts over time to remove abortion from criminal legislation have been unsuccessful, leaving NSW and Queensland as the only states where abortion law is still ultimately based on 19th century English law. The English law on which the provisions in relation to abortion were originally based, (*Offences Against the Person Act*),³ dates from 1861; similar provisions were removed from English law in 1967.

Abstract

Objective: To report results of a community survey of NSW residents' knowledge of current abortion law and views on abortion law reform.

Methods: A total of 1,015 men and women participated. Recruitment and questionnaires were completed anonymously online using survey panel sampling.

Results: Seventy-six per cent of respondents were unaware that abortion remains a criminal offence in the *Crimes Act 1900* (NSW) and 73% thought it should be decriminalised and regulated as a healthcare service. Support for decriminalisation was consistent across genders, age groups, residents of metropolitan/regional and rural areas and levels of education. Support was strong for women seeking abortion to be protected from harassment (89%) and for protester exclusion zones around clinics (81%), with support for these measures significantly stronger among regional/rural residents than Sydney-based respondents.

Conclusions: Abortion law in NSW is out of step with contemporary community views. Residents are largely unaware that it remains a criminal offence and, when informed, support decriminalisation. There is strong support for legal changes to protect women from harassment and to provide protester exclusion zones around abortion clinics.

Implications for public health: Abortion law reform would reduce current inequities of access, be democratic and support women's autonomy and reproductive rights.

Key words: abortion law, abortion law reform, community views

Against this background, Dr Mehreen Faruqi (a member of NSW Parliament for the Greens NSW party) introduced a Bill to the NSW parliament to reform abortion law. The Bill contained three main provisions. Firstly, it removed abortion from the *Crimes Act 1900*,⁴ as had been done previously in the ACT. Secondly, it provided for protester exclusion zones near abortion clinics so that women attending clinics would be protected from harassment by anti-abortion protesters. Lastly, it required medical practitioners holding conscientious objections to give

women information about their options for managing unplanned pregnancy, including referrals to practitioners or clinics where abortion is available, if desired. The Bill was debated but defeated in May 2017 by 25 votes to 14, despite endorsements of support from medical practitioners, public health professionals, nurses, lawyers and other community groups.⁵

Previously, a community survey had been conducted in 2015 to inform the development of the Bill, and to ensure that the new legislation would reflect

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current community sentiment. The survey is significant as it is the first survey of NSW residents' knowledge of abortion law in their state and the first to canvass community views on abortion law reform. Our aim in this paper is to report the methods and full results of the survey, and provide a detailed analysis of the results. Although previous surveys have measured support for legal access to abortion, information about the NSW community's knowledge of the law, as it stands currently in their state, and the community's views towards various options for abortion law reform were unknown prior to this survey.

Methods

Overview

The survey was commissioned by The Greens and conducted online by a commercial market research agency using panel-based sampling. Summary results of the survey were made available online and reported in the press at the time.⁶ The data were subsequently provided in full to the research team for this analysis to provide a peer-reviewed, complete and accessible record of the methods and results.

Participants

Eligible participants were adult (18 years and over) men and women resident in NSW who belonged to the online survey panel.

Recruitment

The survey sample was sourced from a commercial, online data collection company that manages a survey panel of 200,000 Australians. When people initially sign up to the panel, they indicate their willingness to be involved in online survey research on a range of topics. Each time a survey is offered, members are free to participate or decline; thus, participation is considered to represent consent to the survey. On completion of each survey, members receive points that go towards a small reward, e.g. coupons or discounts.

Eligible members were invited to participate and were not aware of the subject of the survey before they agreed to participate. The survey was completed anonymously. The sample was monitored to achieve the desired sample size and to meet quotas based on age, gender and location (metropolitan Sydney, regional/rural). The survey was conducted online between 1 and 10 September 2015.

Survey questions

Survey questions were developed to inform the drafting of the Bill and, as such, addressed key components of recent abortion law reform legislation passed in Victoria and Tasmania to assess their public acceptability in NSW. These key areas were: attitudes towards decriminalisation of abortion in NSW (removing it from the *Crimes Act 1900* [NSW]), attitudes towards the obligations of medical practitioners with conscientious objections to provide information and referrals to patients, and attitudes towards the establishment of exclusion zones around abortion clinics so women accessing the services can be protected against intimidation and invasion of privacy. Further questions were formulated on participants' knowledge of the current legal status of abortion in NSW and whether they knew anyone who had had an abortion. A single-item question asking for an opinion about how readily women should be able to obtain an abortion, using wording identical to that of several previous abortion surveys, was included to enable direct comparison with previous surveys in other Australian jurisdictions. Where response options were lengthy and/or multiple, their order was randomised. Socio-demographic information was collected including age, gender, area of residence, marital status, education and religious belief. The survey questionnaire is shown in Supplementary File 1.

Pilot testing

Survey responses were reviewed after completion by the first 39 respondents, allowing an opportunity to identify any problem questions for review. No problems were encountered and no changes were made.

Standards and ethics

The survey was carried out in accordance with international standards (ISO 20252) for market, social and opinion research. Approval was given by the University of Sydney Human Research Ethics Committee for the authors to be given the anonymous data by the survey company for re-analysis to verify the results, conduct a more detailed analysis and provide a report in the peer-reviewed literature.

Analysis

Data were weighted by age, gender and location according to latest NSW population estimates sourced from the Australian Bureau

of Statistics. Weighted percentages (with 95% confidence intervals) of respondents' answers for each question were calculated. To compare response percentages by gender, age, level of education and area of residence, chi-square tests for the difference in proportions were conducted and P values reported (significance set at $p < 0.05$).

Results

Sample characteristics

A total of 1,015 NSW residents completed the survey: 431 men and 584 women, across age ranges from 18 to 65+ years (Table 1). Due to the sampling methodology, we were unable to estimate the response rate. Instead, we compared the sample characteristics with those of the general adult population of NSW in Census data (Table 1). The majority of respondents were living in the Sydney metropolitan area, with 41% (unweighted percentage) living in regional cities or rural areas of NSW. About 60% were married or living with a partner. In these characteristics, the sample was similar to the NSW population as described in Census data. However, the sample was more highly educated than the overall NSW population. Forty per cent of participants reported identifying with a particular religious belief.

Three-quarters of respondents (76%) were unaware that abortion remains a criminal offence under NSW legislation (Table 2). Slightly more regional and rural respondents knew that abortion is listed as a criminal offence (71% regional/rural unaware vs. 77% Sydney unaware, $P = 0.045$), see Table 3.

Most respondents (73%) thought abortion should be decriminalised and regulated as a healthcare service, with 13% of respondents opposed to decriminalisation and 14% uncertain (Table 2). Support for decriminalisation was consistent across men and women and all age groups, with older citizens – especially older men – strongly supporting decriminalisation (see Supplementary File 2 – Supplementary Table). Support for decriminalisation was also consistent across all levels of educational attainment, with no significant differences by education ($P = 0.565$). There was weak evidence that support for decriminalisation may be higher among regional and rural residents (77%) than among Sydney residents (71% support, $P = 0.068$), see Table 3)

Most respondents (78%) thought there should be a legal responsibility for medical

practitioners, regardless of their personal views, to provide referrals and objective information on options for unplanned pregnancy (Table 2). Views were divided as to whether medical practitioners should have the right to refuse an abortion if they hold a conscientious objection (50% thought they should have this right, and 36% thought they should not, with 13% undecided).

There was a strong majority view (89% agreed or strongly agreed) that women seeking abortion should be protected from harassment or any form of threatening behaviour. Consistent with this, 80% supported the establishment of protester exclusion zones around abortion clinics (Table 2).

In general, knowledge of the legal status of abortion, support for decriminalisation and support for protecting women were significantly higher among regional and rural respondents (Table 3). For example, 93% of regional and rural residents (vs. 87% Sydney residents) agreed that women seeking abortion should be protected ($P=0.0021$), and 86% (vs. 79% in Sydney, $P=0.018$) supported exclusion zones around abortion clinics. Support for these measures did not vary by level of educational attainment (data not shown).

Other abortion-related questions

Overall, 47% of respondents reported that they knew someone who had had an abortion, 56% of women and 38% of men. More regional/rural residents reported knowing someone who had had an abortion (53% regional/rural vs. 46% Sydney residents, $P=0.030$). Consistent with previous surveys, 58% of respondents thought women should be able to obtain an abortion readily and 29% that abortion should be allowed in some circumstances, and few respondents (5.6%) thought abortion should not be allowed in any circumstances.

Discussion

We found three-quarters of respondents in this survey were unaware that abortion is currently listed as a criminal offence in NSW legislation under the NSW Crimes Act, an Act that has been in force in NSW since 1900. Once informed, there was strong support for decriminalisation, with approximately three-quarters of respondents stating that abortion should be decriminalised and regulated as a healthcare service. Majority

Table 1: Characteristics of the sample (N=1,015) and NSW adult population.

Characteristic	N	% (Unweighted)	% (Weighted)	% in NSW Population
Age^a				
<25	98	9.7	11.8	11.5
25-34	203	20.0	18.6	18.3
35-44	187	18.5	17.4	17.2
45-54	186	18.4	18.4	16.8
55-64	192	18.9	18.8	15.3
65+	149	14.7	14.9	20.9
Gender^a				
Male	431	42.5	49.1	49.3
Female	584	57.5	50.9	50.7
Area of residence^a				
Sydney	595	58.6	64.5	64.5
Other NSW	420	41.4	35.5	35.5
Relationship status^a				
Married or living with partner	632	62.3	61.5	57.7
Not married (Never/separated/divorced/widowed)	383	37.7	38.5	41.6
Educational attainment^b				
School qualification only	256	25.2	24.8	40.4
TAFE or Technical qualification	329	32.4	31.5	27.0
University qualification	382	37.6	39.0	20.7
Missing or undisclosed	48	4.7	4.7	11.9
Household Income before tax^c				
<\$40,000	217	21.4	20.8	-
\$40,000-\$99,999	378	37.3	36.9	-
>\$100,000	266	26.2	27.1	-
Unknown, missing or undisclosed	154	15.2	15.3	-
Identify with a particular religious belief^c				
Yes	399	39.3	39.6	56.6 ^c
No	527	51.9	51.7	25.1 ^c
Missing or undisclosed	89	8.7	8.8	18.3 ^c

Notes:

a: Age, gender, area of residence, social marital status as reported in Census 2016: http://www.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/1?opendocument

b: Highest educational attainment: NSW Population data retrieved from TableBuilder (Census 2011 data) Accessed 5 June 2017 (2016 data not yet released as at 13 October 2017)

c: Directly comparable data not available in Census as the Census question is optional and the wording is different

support for decriminalisation was consistent across men and women and all age groups and was supported by more regional/rural residents than Sydney residents. There was a strong majority view (89%) that women seeking abortion should be protected from harassment or any form of threatening behaviour. Consistent with this, 80% supported the establishment of protester exclusion zones around abortion clinics. Almost half the respondents (47%) reported they knew someone who had had an abortion. Of note, more regional and rural residents knew someone who had had an abortion, thought abortion should be decriminalised and thought women seeking abortion should be protected from harassment. Abortion clinics in some rural centres, notably Albury on the border of NSW and Victoria, are subject to strong protester activity. This presents an impediment to

access and engenders feelings of stigma and intimidation among women attending the facilities. These barriers may explain why there was stronger support for decriminalisation in regional and rural respondents in NSW.

Comparison with other studies

Previous surveys in Australia have consistently found high levels of public support for women to be able to access abortion lawfully.^{7,8} For example, a question on access to abortion has been asked in the Australian Election Study for three decades, using a nationally representative sample of voters. A recent analysis of trends in these data showed that 94–96% of respondents have supported lawful access to abortion since 1987.⁸ Trends over time reveal that an increasing percentage of Australians are supportive of women being able to access abortion readily; this percentage

has increased from 39% in 1987 to 69% in 2016. Over the same time, the percentage of respondents supportive of access to abortion only in special circumstances has declined from 55% to 27%. The percentage opposed to any access to abortion has declined from 6% to 4%. These trends likely reflect changes in social views and suggest that most Australians are now supportive of women being able to access abortion – not just legally, but readily and as they need to – at their own choice and without significant impediments to access.

Other surveys, for example by Marie Stopes International in 2006 and the Australian Survey of Social Attitudes in 2003, 2005 and 2007, returned similar findings that were strongly supportive of access to abortion.⁷ Our results are consistent with these data, with the vast majority of respondents in our survey supporting access to abortion either readily or under special circumstances. No survey, however, has previously assessed NSW women's knowledge about abortion law, nor contemporary community attitudes to abortion law reform in NSW.

Strengths and limitations

Strengths: As noted above, this survey is unique in assessing NSW residents' knowledge of and attitudes towards abortion law and abortion law reform. Our study also has a number of methodological strengths. The sample included men as well as women, respondents across a range of ages, and residents in regional and rural NSW as well as respondents in Sydney. Comparison with census data showed the sample was representative of the NSW population in terms of age, gender, area of residence and relationship status. Although the questions specific to NSW law and law reform were necessarily unique, these questions were pilot tested prior to conducting the full survey. With respect to views towards abortion availability, we used the same question as earlier national surveys by the Australian Electoral Study to enable a comparison of data. Our findings were almost identical to those of the Australian Electoral Study using a nationally representative sample,⁸ providing validation of our results and further evidence of the representativeness of the sample.

Limitations: Due to the use of the survey panel to obtain the sample we were unable to estimate the participation rate. Our sample was more highly educated than the overall NSW population; however, views about decriminalisation and protection of women seeking abortion did not differ according to educational achievement.

Implications for public health policy and practice

NSW and Queensland remain the only Australian states that still retain criminal offences for abortion dating from the 19th century. In Queensland, decriminalisation and law reform is under active consideration; whereas, in NSW there are no current plans towards decriminalisation. It is unclear why the NSW parliament is so out of step with community opinion and with legal changes in other Australian jurisdictions. One reason may be the existence of strong, socially conservative factions in each of the two major political parties in the NSW parliament, with the result that NSW abortion law reform has lacked an effective champion. This, together with the influence of socially conservative minor parties, appears to have prevented legislative change longer in NSW than in other Australian jurisdictions. In Queensland, there has also been little political support for

Table 2: Respondents' knowledge and attitudes about abortion law, abortion law reform, and other items (raw numbers, weighted percentages and 95% confidence intervals).

Question	Response options	N	%	95% CI
Legal status of abortion				
Abortion is currently listed as a criminal offence under the NSW Crimes Act (1900). Before today were you aware of this?	Yes	243	24.5	21.7–27.2
	No	772	75.5	72.8–78.3
In your opinion, do you think abortion should be removed from the Act (decriminalised) and regulated within the health care services?	Yes	745	72.8	70.0–75.6
	No	132	13.4	11.3–15.6
	Don't know/not sure	138	13.8	11.6–16.0
Rights and responsibilities of medical practitioners				
Medical practitioners should have the right to refuse abortion if they conscientiously object to the principle of abortion	Strongly agree	163	16.2	13.8–18.5
	Agree	346	34.4	31.4–37.4
	Disagree	190	18.6	16.2–21.1
	Strongly disagree	182	17.5	15.1–19.9
	Don't know/not sure	134	13.3	11.2–15.4
There should be a legal obligation for medical practitioners, regardless of their personal views on abortion to provide referrals and objective information on options for unplanned pregnancies	Strongly agree	412	40.0	36.9–43.1
	Agree	388	38.3	35.2–41.4
	Disagree	79	7.9	6.2–9.6
	Strongly disagree	40	4.0	2.7–5.2
	Don't know/not sure	96	9.8	7.9–11.7
Protection and protest				
Women seeking abortion should be protected from any form of harassment or threatening behaviour	Strongly agree	572	55.2	52.0–58.3
	Agree	333	33.6	30.6–36.6
	Disagree	40	4.1	2.8–5.4
	Strongly disagree	10	1.0	0.4–1.7
	Don't know/not sure	60	6.1	4.6–7.6
Anti-abortion protestors are exercising their rights to freedom of opinion and expression when they approach women entering and exiting abortion service providers	Strongly agree	75	7.7	6.0–9.4
	Agree	278	27.9	25.1–30.8
	Disagree	260	25.0	22.3–27.7
	Strongly disagree	275	26.9	24.1–29.7
	Don't know/not sure	127	12.4	10.4–14.5
Protestor exclusion zones should be introduced around abortion clinics to protect women from harassment and threatening behaviour	Strongly agree	487	46.9	43.8–50.0
	Agree	344	34.1	31.2–37.1
	Disagree	54	5.5	4.1–7.0
	Strongly disagree	24	2.4	1.5–3.4
	Don't know/not sure	106	11.0	9.0–13.0
Other abortion-related items				
Do you know anyone who has ever had an abortion?	Yes	497	47.1	44.0–50.3
	No	446	45.8	42.7–49.0
	Don't know/not sure	72	7.0	5.4–8.6
Which of the statements best describes your current views about abortion?	Women should be able to obtain an abortion readily when they want one	593	57.9	54.7–61.0
	Abortion should be allowed only in special circumstances	291	29.0	26.1–31.9
	Abortion should not be allowed under any circumstances	57	5.6	4.2–7.1
	Don't know/not sure	74	7.5	5.8–9.2

abortion law reform in the past. However, the issue is currently being considered by the Queensland Law Reform Commission, and it is possible that any recommendations made by the Law Reform Commission will form the basis of legislation to decriminalise abortion in Queensland.

For NSW women, accessing abortion is likely to remain challenging, especially for those in regional and rural areas. Despite hope that PBS subsidisation of medical abortion would make abortion much more accessible,^{9,10} uptake of medical abortion is still relatively low and the majority of women choose surgical abortion.¹¹ Surgical abortion, however, remains mainly limited to large metropolitan centres where abortion is provided through a number of clinics that operate as fee-for-service clinics, as most public hospitals do not provide abortion in NSW. This situation results in the capacity to pay limiting access for some women, especially rural residents. In a recent study of Australian women having an abortion, 25% of women reported travelling more than one hour to have it and an additional 11% reported having to stay overnight. Median out-of-pocket costs were \$470, even with the Medicare rebate. Costs were higher for abortions performed after 13 weeks, and for women who had to travel more than four hours. A total of 34% of women said they found it difficult/very difficult to pay for the abortion. Women who experienced difficulties paying for the abortion were more likely to present for later abortion, suggesting that access remains a barrier to timely abortion provision.¹¹

Abortion law reform will not immediately resolve all issues with access. Nonetheless, decriminalisation and protection from harassment are likely to improve access, especially in regional and rural areas of NSW, since medical practitioners who are willing to provide abortion currently lack certainty about being able to do so without risk of criminal prosecution for themselves and their patients. At a minimum, decriminalisation would address this barrier to access. In smaller communities with relatively few practitioners, the attitudes of individual practitioners towards abortion may have undue influence if personal beliefs result in practitioners providing limited information and management. Law reform could potentially help address this barrier by requiring medical practitioners to provide information and refer clients to services where abortion can be

Table 3: Respondents' knowledge and attitudes about abortion law, abortion law reform, and other items, by area of residence (weighted percentages and P-values for difference in percentages between metropolitan Sydney respondents and regional city/rural respondents).

Question	Response options	NSW	NSW	P-value
		Metropolitan Sydney (%)	Regional and rural (%)	
Legal status of abortion				
Abortion is currently listed as a criminal offence under the NSW Crimes Act (1900). Before today were you aware of this?	Yes	22	27	0.045*
	No	78	73	
In your opinion, do you think abortion should be removed from the Act (decriminalised) and regulated within the health care services?	Yes	71	77	0.068
	No	15	11	
	Don't know / not sure	15	12	
Rights and responsibilities of medical practitioners				
Medical practitioners should have the right to refuse abortion if they conscientiously object to the principle of abortion	Strongly agree	14	19	0.287
	Agree	35	32	
	Disagree	17	19	
	Strongly disagree	19	18	
	Don't know/ not sure	14	12	
There should be a legal obligation for medical practitioners, regardless of their personal views on abortion to provide referrals and objective information on options for unplanned pregnancies	Strongly agree	39	43	0.012*
	Agree	39	38	
	Disagree	7	9	
	Strongly disagree	3	5	
Don't know/ not sure	12	6		
Protection and protest				
Women seeking abortion should be protected from any form of harassment or threatening behaviour	Strongly agree	52	63	0.0021*
	Agree	35	30	
	Disagree	5	2	
	Strongly disagree	1	0	
	Don't know /not sure	7	5	
Anti-abortion protestors are exercising their rights to freedom of opinion and expression when they approach women entering and exiting abortion service providers	Strongly agree	9	6	0.0012*
	Agree	30	23	
	Disagree	22	31	
	Strongly disagree	26	29	
	Don't know/ not sure	13	11	
Protestor exclusion zones should be introduced around abortion clinics to protect women from harassment and threatening behaviour	Strongly agree	45	53	0.018*
	Agree	34	33	
	Disagree	6	5	
	Strongly disagree	3	2	
	Don't know/ not sure	13	7	
Other abortion-related items				
Do you know anyone who has ever had an abortion?	Yes	46	53	0.03*
	No	47	39	
	Don't know/ not sure	7	8	
Which of the statements best describes your current views about abortion?	Women should be able to obtain an abortion readily	58	59	0.048*
	Abortion should be allowed only in special circumstances	27	32	
	Abortion should not be allowed under any circumstances	6	5	
	Don't know/not sure	9	5	

Note:

*P value significant at <0.05

provided. In the absence of decriminalisation and law reform, inequitable access to abortion will continue to be a contributor to health inequalities in NSW.

In Victoria and Tasmania, it is illegal for people to protest within 150 metres of abortion clinics. In NSW, however, women have had to face anti-abortion campaigners who

form pickets outside abortion services and intercept women as they seek to access healthcare of a very personal nature. These protests have triggered concerns about harassment and invasion of privacy.¹² To address this, NSW upper house Labor MP Penny Sharpe proposed a Bill to prevent protesters from intimidating, harassing or

filming within 150 metres of abortion clinics. After a lengthy and passionate debate, the Bill was passed in June 2018. In future, protesters found to be in breach of the law could face up to 12 months in prison.¹³ The new law should protect the security and privacy of NSW women seeking abortion and should improve access to abortion services.

Finally, unlike other women in Australia, NSW women remain unable to make their own decision about whether or not to have an abortion and remain reliant on doctors to make this judgement for them, raising questions about the adequacy of women's autonomy and reproductive rights.

Conclusion

NSW residents are largely unaware that abortion is listed as a criminal offence in their state. When informed, most residents believe abortion should be decriminalised. There is strong community support for legal changes to protect women from harassment by providing protester exclusion zones around abortion clinics. As such, current abortion law in NSW is out of step with contemporary community views. Abortion law reform would help redress current inequities of access to abortion, and support women's autonomy and reproductive rights.

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Supporting Information

Additional supporting information may be found in the online version of this article:

Supplementary File 1: Survey Questionnaire.

Supplementary File 2: Table: NSW residents' views on decriminalising abortion, in NSW, by gender and age of respondents.