

Opinion



Indonesia's campaign against poliovirus

A medical worker gives a vaccine to a boy during a polio immunization campaign, which was held at Sigli Town Square in Pidie, Aceh province, in Indonesia, yesterday. Indonesia has begun a campaign against the poliovirus in the country's conservative province, after several children were found infected with the highly-contagious disease, which had been declared eradicated in the country less than a decade ago. Photo: AP/Riska Munawarah

Legalising abortion by stealth



KEVIN AQUILINA

By means of clause 2 of Bill No. 28 of 2022, published in The Malta Government Gazette on Monday, 21 November 2022, the government is proposing to introduce abortion in Malta through the backdoor.

*Kevin Aquilina is Professor of Law at the Faculty of Laws at the University of Malta.**

It contends that this is not the case, and that the real intention behind this Bill is to save a pregnant woman's life when there are serious complications to her life, even if this might end up in the termination of the life of an embryo or a foetus that she is carrying. Furthermore, the government wants us to believe that the only purpose of this Bill is to write into law a practice currently followed by medical practitioners, who terminate the life of an unborn child when this is indispensable, in order to save the pregnant woman's life. Yet the very wording of the provision indicates otherwise.

Government's proposed provision reads as follows: "No offence under article 241(2) or article 243 [of the Criminal Code] shall be committed when the termination of a pregnancy results from a medical intervention aimed at protecting the health of a pregnant woman suffering from a medical complication, which may put her life at risk or her health in grave jeopardy."

If the provision were to read

"No offence under article 241(2) or article 243 [of the Criminal Code] shall be committed when the termination of a pregnancy results from a medical intervention aimed at protecting the life of a pregnant woman suffering from a medical physical complication, which puts her life at risk" or words to that effect, that would have been a different matter, even though the provision by itself needs to be considerably beefed up, so as not only to provide better guidance to the attending obstetrician responsible for the medical intervention, but also to provide for other pertinent matters.

Indeed, the government's proposal distinguishes between the 'life' or 'health' of a pregnant woman, a distinction that is unwarranted if the government aims only to save the life of a pregnant woman facing a life-threatening situation. Indeed, there can be several cases where a risk to a pregnant woman's health is not life-threatening at all. Yet the provision does not limit itself to life-threatening situations, but goes beyond it to include 'risk

to health'. It is here that the main problem lies, because it is through such wording that abortion is being introduced via the backdoor.

Of course, if the government comes out clean and states that the Bill is intended to introduce abortion by stealth, that would be a different matter, as the government would be calling a spade a spade and would not be misleading us through half-truths. In that case, it would be clarified that the Bill aims to cater for two situations: (1) saving the pregnant mother's life when she is facing a life-threatening situation, and (2) permitting the abortion of a foetus or embryo that might constitute an inconvenience to a pregnant woman. In the latter case, as through the introduction of an exception, the government is nullifying the entire provisions of the Criminal Code that penalise abortion, whilst completely extending them beyond inhumane and unreasonable limits.

In the case of a foetus, as government's provision runs, it is possible to abort a foetus in utero up till a few seconds be-

fore the child is delivered, that is, during the ninth month of pregnancy, even if the pregnant mother's life is not in danger and even if the child can be successfully delivered prematurely. But this is not what the government is stating.

If the pregnant woman is suffering from a temporary depression or stress, or remorse from having fallen pregnant, or does not have sufficient money in order to raise a new born child, the pregnant woman – so as not to put her health in grave jeopardy may, as on the ninth month of the pregnancy, opt to terminate the foetus's life even though the foetus might be delivered prematurely and healthily without any risk, threat or danger to the pregnant woman's life. I am not aware of any foreign law that provides for this. But at least the government can claim that Malta will hold the record of being the first pioneering country in the European Union, as well as in the world, that aborts foetuses at their ninth month of gestation. A first for Malta that can be inscribed in the Guinness Book of Records.