

# Reproductive Rights Denied and Delayed

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2022 has been a year of reckoning for feminist abortion politics. Here in South Australia (SA), the jubilation we felt after legislation decriminalising abortion was finally passed in March 2021 had well and truly worn off when the new year came, and then a new government was elected and still the new law was not in place.

The South Australian abortion action coalition (*saaac*) was formed in 2015 with the purpose of improving access to abortion healthcare primarily, but not exclusively, by campaigning for decriminalisation. In June 2022, despite the success of this campaign, the Pregnancy Advisory Centre, SA's main abortion provider, was sending people needing abortions after 22 weeks pregnancy to Darwin to avoid prosecution for breaching the hard upper limit that had been removed, but only in theory at this point. Those living in rural and remote areas were still often forced to undertake unnecessary and costly journeys—sometimes traveling epic distances across this vast state—to access medical abortion care that was available by telehealth to people in other parts of the country.

Covid-19 amplified the problems with SA's 50-year-old abortion law. The 1969 legislation was an amendment to the criminal code that was proving tired and incompetent in the face of improved medical technologies that enabled self-managed abortions at home in every other state. Here in SA, patients were forced to leave lockdown and expose themselves and their abortion healthcare workers to unnecessary risk of infection just to cross the threshold of a hospital twice, with an interval of 24 to 48 hours, to be given the two pills required for a medical abortion. All this because our 1969 legislation required all abortions be performed in a 'prescribed hospital'.

Despite the sense of urgency to protect South Australians from Covid-19 in the first two years of the pandemic, the health and safety of abortion patients was a peripheral concern. On the eve of the 2020 lockdown, the attorney general and her staff were drafting a Bill to decriminalise abortion. When the Emergency Management Act 2004 (SA) was invoked to deal with the pandemic, this drafting work was halted. The police commissioner and the chief medical officer became the authorities and public faces of Covid-19 management in accordance with the Act, while the premier was a mere background figure whose main role was to pronounce his support for their decisions.

Almost immediately, *saaac*'s focus shifted from decriminalisation to lobbying the chief medical officer to use her powers defined by the Act to advise the police commissioner to suspend the aspects of SA's abortion law that made those needing abortions unnecessarily and disproportionately vulnerable during the pandemic. We identified and lobbied on the basis of two issues. The first was the impact of lockdown on sexual activity, with or without consent, and the anticipated increase in unwanted pregnancies and need for abortion and possible obstructions to access. The second issue was infection exposure, which was especially relevant to those with compromised immunity. With a move to telehealth for GP services across the country, people seeking abortions in all jurisdictions outside of SA were able to access early medical abortion via telephone or online consultations at home and postal delivery of medication. In SA this was not lawful. Despite an intense campaign from April 2020, there was no temporary change to abortion law to protect patients and abortion providers during a period of heightened need for abortion care services and heightened risk of disease.

When the SA lockdown was lifted politicians resumed some of their pre-lockdown projects and abortion legislation was tabled in parliament. In the first instance Greens MLC Tammy Franks presented a Bill to legislate for 150-metre, safe access zones around abortion services. After some debate about the right to silent prayer in the vicinity of services, the Bill passed both houses in November 2020 and was implemented within weeks. Buoyed by this, *saaac* intensified its focus on decriminalisation and, by March, both houses had passed the Termination of Pregnancy Act 2021 (SA), thus removing abortion from criminal law and lifting barriers to access ... in theory at least. This felt like a feminist victory, and it was.

However, by the end of 2021 the regulations required for the new law to take effect were still not finalised. For reasons that were not made public, the work required for the enactment of the law was not prioritised. As the Omicron variant of Covid-19 took hold after the borders were gradually opened between November 2021 and January 2022, the concerns that had energised *saaac* during the lockdown in 2020 were with us again. We had a new abortion law but in mid-May 2022, when the number of cases recorded in one day hit a record high of 7,165, a significant majority of abortion patients outside of Adelaide were still beset by unnecessary travel requirements that diminished their privacy, increased their costs and forced a greater risk of exposure to disease. At this point, much of Australia became captivated by the news that a draft decision of the Supreme Court of the United States on the future of *Roe v. Wade* had been leaked. Six weeks later, on 24 June, the landmark ruling that had secured the right to abortion on the constitutional grounds of the right to privacy was overturned.

As the *Roe v. Wade* news sunk in, expressions of solidarity spread across Australia and elsewhere. In Adelaide, 5,000 people marched down King William Street on 1 July, a cold Friday night. Within a week, the SA legislation that had passed 16 months earlier finally came into effect on 7 July. However, in the short week between 1 and 7 July, Australian anti-abortion forces—long buttressed by their overseas counterparts and focused on South Australia—reinvigorated their efforts against abortion rights. On Saturday 2 July, David Speirs MP, the new leader of the opposition Liberal Party, was due to attend a training day for emerging anti-abortion leaders as a mentor. The publicity for this event may well have been the reason for him withdrawing at the last minute. It also revealed that SA parliamentarians from both major parties were actively involved in this group, calling itself Enid Lyons List.

Central themes in the 2022 *Roe v. Wade* story are geography and privacy. Where geography is an issue, so too is cost. Almost at the moment when the final legal victory of *saaac* and its supporters was won, the US Supreme Court decision reminded us that the story of state-by-state decriminalisation in Australia since 2002 and the victories for increased legal access in countries like Ireland, Argentina and Thailand since 2020, do not reflect a natural global trajectory towards reproductive justice, a fact that historians hardly need reminding of. But as geographical inequities leading to reduced privacy and an unfair cost burden were finally being addressed by SA law, a changed interpretation of the constitutional right

to privacy and the geographical inequities it exacerbates was causing heartache in the US, especially in the 13 states where Roe's reversal prompted trigger laws that effectively ban abortion. And while SA's premier and deputy premier provided public reassurances that there was no plan to reopen the abortion debate here, the swift response of SA-based anti-abortion activists, including powerful MPs, to the *Roe v. Wade* furore reminded us that lives connect across the globe and doing feminism involves tenacity and vigilance.

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