

LETTERS

# Australia - On the abortion law reform in Victoria

Tuesday 21 October 2008, by [ARTHUR Joyce](#), [HAWKINS Trent](#), [OLIVER Karly](#), [YU Kimberly](#) (Date first published: 18 October 2008).

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## Is the abortion law reform in Victoria enough?

The Victorian Abortion Law Reform bill was passed by the parliament's lower house on September 12 after more than 70 hours of debate. This may finally mean that abortion is removed from the state's Crimes Act dating back to 1958. Until the bill is passed, abortion remains a crime.

The state's upper house will begin debating the bill on October 7, and the vote is likely to be close. The outcome could go either way, with anti-abortion campaigners intensifying their campaign against any liberalisation of abortion laws.

If the bill is passed, it will be a big step forward: all restrictions on abortions up to 24 weeks of pregnancy will be removed. However, the bill still places restrictions on abortions carried out after the 24 week stage by requiring women to get the approval of two doctors.

Abortion law is different in each of the states and territories of Australia, with the Australian Capital Territory allowing women the full right to choose when it comes to their reproductive rights. The ACT is the only state or territory to fully legalise abortion with no restrictions.

The Crimes (Abolition of Offence of Abortion) Act 2002 was passed by the ACT Labor government with the help of the Greens and independents. There is no evidence that abortions have increased in the ACT as a result of removing abortion from the criminal code.

Placing legal restrictions on abortions does not affect the number of abortions that occur. What it does is make them more unsafe, according to the World Health Organisation, leading to a higher rate of infections, infertility and even death.

A further example of progressive abortion laws can be found in Canada where the law against abortion was first liberalised in 1969 and in 1988 the Supreme Court removed it completely from the criminal code. In 1967, when abortion was still a crime in Canada, Dr Henry Morgentaler lobbied to change this law.

Morgentaler believed women had a basic right to abortion. Under the law at the time, abortions were only supposed to be performed in hospitals, with the permission of three doctors.

After hearing of the high number of deaths resulting from illegal abortions, Morgentaler began performing safe abortions in clinics. He was charged and sentenced to jail. This galvanised a movement for abortion rights, with women from all over Canada taking part in a national protest.

After two days of protesting, the parliament was closed for the first time as a result of 35 women chaining themselves to the parliamentary gallery.

Groups such as the Canadian Abortion Rights Action League remain dedicated to defending abortion rights in Canada today. Since the legalisation, pro-choice activists have been able to focus on campaigning for safe and affordable abortions to women who are now able to seek these procedures in a far greater number of clinics, health centres and hospitals throughout rural and urban Canada.

As a result of this legislative change in Canada the maternal mortality rate there is the lowest internationally for early abortions. The overall abortion rate is lower than most developed countries.

The Canadian example disproves the argument put forward by anti-choice campaigners that legalising abortion would encourage more abortions.

The Abortion Law Reform Bill currently before the Victorian parliament doesn't go far enough and should remove all restrictions on abortions at all stages of pregnancy, as the ACT and Canadian legislation has done.

Although late-term abortions are rare, the reasoning behind them is usually complex and related to situations beyond the woman's control. The restrictions that the Victorian Abortion Law Reform Bill puts on abortions carried out after 24 weeks of pregnancy place women who need these abortions in a difficult position.

If the bill is passed, doctors who carry out late-term abortions can still be liable for professional misconduct if they fail to appropriately consider "relevant medical circumstances" including the condition of the foetus. The same provision does not exist for abortions before 24 weeks. This will make doctors more nervous about approving late-term abortions.

By placing the ultimate decision about late term abortions in the hands of two doctors, the Abortion Law Reform Bill assumes that women do not take responsibility for their actions and do not have the ability to make the right decisions about their life.

Instead of placing restrictions on late-term abortions, the Victorian government should have the courage to implement reform that reflects public opinion. Recent opinion polls indicate that 84% of Victorians support the removal of all restrictions on abortions, regardless of the stage of pregnancy.

These issues will be discussed in a public meeting on September 25, 6pm at Trades Hall. Speakers include Greens MLC Colleen Hartland, Liberty Victoria vice-president Anne O'Rourke, Professor Roger Short and Socialist Alliance spokesperson Mary Merkenich.

**Karly Oliver**

**20 September 2008**

*\* From: Australian News, Green Left Weekly issue #768 24 September 2008.*

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## **Abortion law: 'We won't go back to the backyards!'**

***The following article is based on a speech Resistance member Kimberly Yu gave to an October 4 rally in Melbourne.***

The act of a doctor performing an abortion in Victoria has been in the Crimes Act since 1958. The Australian Capital Territory is the only state that has fully decriminalised abortion, which means that it has no laws governing this medical procedure.

Abortion is the second most commonly performed surgical procedure for women in Victoria and, according to the World Health Organisation, is one of the safest. However, it's currently the only medical procedure in the Victorian Crimes Act, which makes abortion a criminal offence.

The Abortion Law Reform Bill was tabled in the Upper House on October 7. This is a big leap forward for women's rights but it doesn't go far enough. This is because the proposed bill supports Model B, which takes abortion out of the Crimes Act completely, but places restrictions on abortion procedures after 24 weeks of pregnancy.

According to the bill, a late-term abortion requires the approval of two doctors, who have to assess the mental, physical and socio-economic situation of the woman as well as the medical condition of the foetus. These doctors face the possibility of being liable for professional misconduct if it is decided they do not adequately take these considerations into account.

Studies show that only 1% of women seeking abortions do so after 24 weeks, but they are also the most vulnerable and disadvantaged. Many of them are teenagers or victims of incest or sexual assault. They might be suffering from mental illness or intellectual disability, or have experienced a sudden tragic life circumstance or discovered a foetal abnormality.

Difficulties in raising the money for a termination can also push women towards a late-term abortion.

There is already a shortage of doctors and medical facilities in rural areas. How are women in the country going to find two doctors to approve and carry out an abortion?

Restricting late-term abortions is an attack on women's fundamental human rights. It places restrictions on a woman's ability to control her own fertility, as well as when and how many children she has. It limits a woman's right to choose to just 24 weeks gestation.

After that, her life and her future are in the hands of a couple of doctors.

It's shameful that a developed and wealthy society such as Australia still keeps women in the Dark Ages. The state, the Right to Life group and other anti-choice campaigners have imposed ideological and legal restrictions on women's abilities to live their lives independent of the home and family.

Ex-PM John Howard once said that "the family is the greatest welfare system ever devised".

Government policies encourage women to have babies, but they don't provide adequate support in raising children. This leaves the burden of childcare in the hands of women and keeps them within

the traditional role of wife and mother.

No government or institutional authority has the right to limit a woman's right to choose when and if to have children. Abortion is a woman's decision to make and no one else's.

We support this reform bill because abortion will be legally decriminalised, but the fight doesn't end here. Passing this abortion bill doesn't mean that ALL women have universal access to safe and free abortions.

Medicare does not always cover the entire cost of having an abortion and there are currently only three medical facilities that perform late-term abortions in the whole of Victoria.

There's also evidence that international students who do not have access to Medicare are forced to have illegal, unsafe backyard abortions because they can't afford to pay the bill, which can be up to \$3000.

Legislation won't increase the number of abortions, but it will certainly decrease the number of dangerous backyard abortions that women are forced to have.

We need to continue fighting to achieve an equal and democratic society where women have full control over their bodies and their lives.

We won't go back to the backyards!

## **RESISTANCE!**

Kimberly Yu, Melbourne

11 October 2008

*\* From: Comment & Analysis, Green Left Weekly issue #770 15 October 2008.*

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## **Abortion reform passed in Victoria**

After much debate, mounting pressure from the Catholic Church and attempted legislative amendments, the Victorian Abortion Law Reform Bill was passed unamended by the Victorian Upper House on October 10.

A week earlier, on October 4, more than 200 people had rallied to support the bill, which would finally decriminalise abortion in Victoria. The rally was called to mobilise the strong pro-choice sentiment in Victoria in the lead-up to the bill being tabled in the Upper House on October 7.

Speakers at the rally included Colleen Hartland, Greens MLC, Resistance member Kimberly Yu and representatives from Socialist Alternative and Radical Women.

Hartland expressed the importance of never going back to women being forced into having backyard abortions, which can cause infections, maiming and death, as a result of lack of access due to abortion being a crime.

Hartland said polls suggested 80% of Australians support a woman's right to choose, and called on representatives in parliament to reflect this.

Yu pointed out that although the current bill would be a step in the right direction in that it removes the act of abortion from the Crimes act, it still places restrictions on a woman's rights to choose to have an abortion at any stage of the pregnancy. [See Yu's speech on page 9.]

Other key points raised included the fact that it is often working-class women who may not have access to or be able to afford to have an abortion — but if a woman can't afford an abortion how can she be expected to afford to raise a child? This highlights the importance of woman having control over their own bodies, including access to safe, free, legal abortion.

In the lead up to the Upper House debate, "pro-life" groups stepped up their public campaign to keep abortion as a crime. They held a 2000-strong rally on October 5, covering the city with posters depicting a foetus at different stages of pregnancy and sending abusive letters and messages to pro-choice MLCs.

The anti-abortion campaign, realising it could no longer stop the bill completely, then turned its attention towards amending the legislation.

Over 70 amendments were proposed in the Upper House, including mandatory counselling, parental consent, and removing the need for doctors with a "conscientious objection" to refer women onto another doctor without such an objection.

In recent weeks, the last amendment had been the focus of much media attention, with the Catholic Church threatening to shut down maternity wards in Catholic hospitals if they were forced to refer women to doctors who could provide them with an abortion.

The amendments were aimed at imposing further restrictions on women's rights. The fact that the bill was passed unamended is a victory for the campaign for women to have control of their bodies.

**Karly Oliver & Trent Hawkins, Melbourne**

**11 October 2008**

*\* From: Australian News, Green Left Weekly issue #770 15 October 2008.*

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## **Abortion: no laws are needed**

### **Feature letter:**

Thank you for your article "Is the abortion law reform in Victoria enough?" [1]. I appreciate your comments about Canada (one correction: the Canadian Abortion Rights Action League has been defunct for about 5 years, and a different national group has formed to fill the gap: the Abortion Rights Coalition of Canada).

I see the new Victoria law has now passed second reading. This is a huge step forward compared to the previous situation, and congratulations to pro-choice campaigners for mostly decriminalising

abortion. However, it's strange and unfortunate that a new law was passed, rather than repealing the old one completely, as was done in the ACT in 2002.

The new law perpetuates or creates a number of serious problems:

- Abortion after 24 weeks is still restricted, with doctors and healthcare professionals subject to professional misconduct charges if they perform an abortion without permission or outside the criteria. The law takes the decision out of the hands of women completely, and gives it to doctors and legislators.
- The gestational limit removes much medical discretion from doctors, giving it to legislators instead. Doctors are being threatened with punishment simply for doing their job of saving women's lives and health. This may keep down the number of providers, thereby hindering access to late abortions, the most desperately needed ones.
- The gestational limit validates the assumption that women and doctors are having/performing "frivolous" abortions right up to the point of delivery, so the state must control these amoral people. Late abortions are only done for compelling reasons, and no-one but women and doctors should be making these difficult decisions.
- Women's lives and health are subject to a fetal right to life after 24 weeks. In effect, this gives fetuses official legal representation by the state. This negates and undermines the active safeguards that society already has in place to protect the interests of fetuses — they're called pregnant women.
- The gestational limit is symbolism that sends a strong anti-woman message. It's a vestige of 20<sup>th</sup> century thinking that could not comprehend that women should or could exercise a right to abortion, so it's disappointing to see it being newly reinforced in 2009 in Australia.
- Experience from the ACT and Canada is clear that decriminalising abortion completely does not increase it, and certainly does not increase late abortions. The Victoria legislature apparently chose to ignore this evidence, which means the law is purely political.
- The law perpetuates the notion that abortion needs extra legal control, even though there's no reason abortion practice can't be regulated just like any other medical procedure.
- The law gives the opposition fuel to keep fighting (and possibly winning). The law itself will serve as a tool to interfere with abortion rights — by passing amendments and other restrictions, initiating court challenges against it, serving as an ongoing focal point for public debate and opposition, etc. If there was no law at all, the anti-choice would not have a convenient platform from which to agitate against abortion.

I invite you to read my article at [www.arcc-cdac.ca/action/dont-need-a...](http://www.arcc-cdac.ca/action/dont-need-a...) on why no laws are needed on abortion.

Joyce Arthur

Abortion Rights Coalition of Canada

18 October 2008

[Abridged.]

\* *From: Comment & Analysis, Green Left Weekly issue #771 22 October 2008.*

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## Footnotes

[1] GLW #768. See above