

# Feminism and the ‘Woman Equals Mother’ Discourse in Reproductive Politics in Australia

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# Abstract

This thesis explores the persistence of a ‘woman equals mother’ discourse within the terrain of reproductive politics in Australia. It finds that women are reduced to an essentialised maternal subjectivity through the deployment of an underlying ‘woman equals mother’ discourse across a range of feminist, medical/health and media discourses in Australia. Using abortion and assisted reproductive technologies (ART) as case studies, this thesis suggests that dominant feminist and mainstream discourses on abortion and ART remain located within three main frameworks, those of ‘rights/choice’, ‘moral/ethical’ and ‘health/medical’. All three discourses privilege a view of maternal subjectivity as essential to normative womanhood. While abortion and ART are often situated as separate or even opposing areas of reproductive politics, examining these two sites of reproductive practice alongside one another draws attention to the connections between these two seemingly disparate fields of reproductive practice. Specifically it enables us to identify the strength and persistence of a ‘woman equals mother’ discourse across these realms of reproductive practice. This thesis analyses the contributing factors behind the persistence of this discourse.

The first three chapters in the thesis examine key feminist approaches towards abortion and ART in the late 20<sup>th</sup> and early 21<sup>st</sup> centuries, focusing in particular on the liberal philosophical tradition, the neo-liberal context and its influence upon feminist and mainstream approaches in these areas. These chapters explore the shift within some feminist arguments toward a ‘moral’ defence of abortion, based upon values arising from mothering and motherhood. The last two chapters examine the theoretical dilemmas and contradictions arising out of the approaches examined in the first part of the thesis in relation to two specific debates surrounding abortion and ART that took place in Australia between 2000

and 2007. They examine public discourses contained within newsprint media coverage of debates concerning lesbian and single women's access to ART.

Utilising a feminist discourse analysis approach and drawing upon the work of Ferree, Gerhards, Gamson and Rucht (2002) and their concept of *discursive opportunity structure*, the thesis explores how particular meanings and social problem definitions come to be privileged within public discourse. It is argued that the combination of a strong liberal legacy within feminist arguments combined with particular elements of the social-political context in Australia in the period under consideration reinforced a 'woman equals mother' discourse in reproductive politics. Central to this discourse are ideas centred on notions of 'good', 'bad', 'deserving' and 'undeserving' women based upon essentialised notions of (heterosexual) women as mothers and informed by an increasing 'moralisation of health'. The pregnant body and, by extension, women's bodies are reduced to those of 'mothers', 'potential mothers' or 'non-mothers' within these debates. This thesis considers the implications of these understandings for alternative feminist accounts of women, reproduction and 'family' within reproductive politics in Australia.

# Declaration

I certify that this thesis does not incorporate without acknowledgement any material previously submitted for a degree or diploma in any university; and that to the best of my knowledge and belief, it does not contain any material previously published or written by another person except where due reference is made in the text.

I give consent to this copy of my thesis when deposited in the University Library, being made available for loan and photocopying, subject to the conditions of the *Copyright Act* 1968.

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Chapter 4 contains part of a paper that appeared in the Proceedings of the Fourth Australian Annual Women's Health Conference, Adelaide 2003.

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**Angella Duvnjak**

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**Date**

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This thesis has been a long time in the making and as a result has often required those around me to go beyond the 'call of duty' in their support for me during the process of completion. My supervisor Dr Margie Ripper provided not only intellectual guidance and stimulation but demonstrated faith in me and my abilities at times when faith in my own felt very fragile. I have been most fortunate to have a supervisor whose passion, commitment and expertise in the area of reproductive politics and feminism meant that each and every one of our conversations inspired further reflection and development of my ideas.

I began this thesis in the Gender Studies Department at Adelaide University (now the Department of Gender, Work and Social Inquiry) with the support of an Australian Research Council Scholarship. The department provided a supportive and stimulating environment within which to hone my research and teaching skills. The regular seminars and informal conversations with fellow post-graduate students and staff were central to this. I would also like to thank Dr Chris Beasley from the Discipline of Politics at Adelaide University who came on board for a short time as a co-supervisor assisting me in the process of refining the focus of this thesis.



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# Chapter 1 Introduction

## 1.1 Background: The journey to ‘here’

My interest in questions relating to discourse and feminism began when I completed an Honours thesis in the Department of Politics at Adelaide University in 1996 (Duvnjak 1996). At that time I was examining Australian rape law reforms from a feminist perspective. My aim then was to explore the different strategies feminists had employed in their attempts to reform an area of the law with a long tradition of constructing women and their experiences from a male, heterosexist perspective. I was interested in how feminists negotiated the concept of ‘sexual difference’ and gender specificity in this arena. It became clear to me that multiple meanings were constructed within the various discourses surrounding sexual assault, gender and the law. Yet, debates and subsequent reforms within the law tended selectively to reproduce particular meanings within these discourses. I had initially expected to find that feminist perspectives would be routinely excluded and that the work of feminist theorists and activists would focus on making ‘space’ for feminist approaches. Indeed, in earlier debates in the law surrounding issues such as equal rights and anti-discrimination legislation, this was the case.<sup>1</sup> In relation to rape law reform, however, an area of the law with which feminism is intimately and routinely associated, I became aware of new dilemmas. It was apparent to me that, in many instances, the law had merely expanded to include women’s needs insomuch as they reflected conceptualisations still supportive of the patriarchal underpinnings of the western legal canon.

As I explored rape law reforms from a feminist perspective I became aware of the extent to which compromise and concessions characterised feminist approaches. Although I

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<sup>1</sup> See Kirkby, D., Ed. (1995). *Sex, power and justice: historical perspectives on law in Australia*. Oxford, Oxford University Press.; and Naffine, N. (1990). *Law and the sexes: explorations in feminist jurisprudence*. Sydney, Allen & Unwin.

recognised this development as an obvious and somewhat inevitable part of the political process, of more interest to me was how the very parameters of feminist debate or analysis seemed so restricted by the meanings of women contained within legal discourse. One of the key examples I found illustrating how this occurred was the shift from viewing rape as a crime concerned with sex and sexuality to the now more common view of rape as about 'violence'. Feminists wanted to see rape law move away from its reliance on sex as the defining element, where 'sex' was reduced to penile/vaginal intercourse. Such a narrow definition of rape was viewed by feminists as inadequate for its reliance upon patriarchal constructions of (hetero)sex that invoked a 'seduce and succumb' narrative and relied upon simplistic notions of 'consent'. For pragmatic reasons, many feminists adopted a 'violence' or 'sex' approach in their arguments. Often these arguments reproduced an essentialised view of sexual difference in the law.<sup>2</sup> The subsequent reforms in the law of rape<sup>3</sup> revealed a strong commitment to notions of liberal equality (expressed via gender neutrality in the law) much more than they did the feminist desire to see the law more closely reflect women's experiences of the crime. In the end, however, feminist discourses on both sex and violence were central to framing the debate about rape and rape law reform.

I continued to be interested in feminist negotiations of sexual difference in key areas impacting upon women's lives after completing my Honours thesis. I went on to qualify as a social worker and began working with women in an abortion service. It was while working there that I became interested in the ways in which assumptions about 'the maternal' and the idea of 'mother' impacted upon the women with whom I worked. In particular, it became clear to me that these women found it difficult to disentangle the experience of their pregnancy and the decisions they were making about it from social beliefs and

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2 For a discussion of the sex or violence approach taken toward rape see Plaza, M. (1980). "Our costs and their benefits." *m/f: a Feminist Journal* 4, pp.28-39.

3 I refer here to reforms that took place in the early-to-mid 1980s in most states in Australia and also to some extent in Canada and the United States. See Heath, M. and N. Naffine (1994). "Men's need and women's desires: Feminist dilemmas about rape law 'reform'." *The Australian Feminist Law Journal* 3, pp. 30-52.

understandings that equate femaleness or womanhood with maternity. Accompanying this concern, I wondered how successful feminism had been at challenging the notion that to be a woman is to be a mother or, in other words, that the clearest expression of what it is to be female is to reproduce. Following on from such beliefs, abortion would seem to represent a rejection of womanhood itself.

Within contemporary debates concerning women in society abortion appears to function as somewhat of a 'last bastion', with discourses surrounding it reinforcing some of the most rigid and long-standing beliefs about womanhood and motherhood. A key example of this tendency appeared in 1998. In that year United States-born Australian ethicist Leslie Cannold published the book *The Abortion Myth*. In it Cannold seeks to explode the common belief that women who have abortions do so for 'selfish' or 'uncaring' reasons. The belief that the decision to abort a pregnancy is inherently selfish had particular resonance at the time. The picture of the independent working woman who delayed motherhood or rejected it altogether was a dominant theme in media and other public discourses. At the same time, the beginnings of what has come to be known as a 'fertility crisis' were emerging in the media.<sup>4</sup> Cannold asserted that women make decisions to abort pregnancies in ways that reflect their values concerning motherhood. In essence, she recasts women's decisions to abort pregnancies as being intimately connected to their values surrounding mothering rather than a rejection of those values. In doing so, she seeks to realign the aborting woman with motherhood and, one could argue, with womanhood itself. Indeed, Cannold suggests re-naming the abortion debate the 'motherhood debate'. The book sparked wide-ranging responses and reignited interest in the topic of abortion. It seemed to 'speak to' the very questions I had been asking myself in my work as a social worker in an abortion clinic and

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<sup>4</sup> See, for example Colebatch, T. (2002). "Fertility rates slump to a new low" *The Age*, 8 Nov, p.3; Colbatch, T. (2000). "Childless future for more women" *The Age*: pp.1-2, McKinnon, M. (2000). "The Childless Women" *The Advertiser*: 25 Mar. p.70.

also as a feminist. It was the beginnings of my thinking on what would later become this thesis.

The dilemma that Cannold tackles in relation to women's abortion decisions is similar in some ways to the one feminists encountered with rape law. Either rape is essentially about sex and therefore about sexuality, bodies and the gender of those bodies, *or* it is about violence, with the sexed specificity of the bodies a minor detail, an *aspect* of the crime rather than its *essence*. With abortion, a similar dichotomy results that sees women as either choosing abortion because they are selfish, uncaring and rejecting of motherhood *per se* or, doing so because of their valuing of motherhood and their essential connectedness with these values. Within this framing the aborting woman, therefore, can occupy one of two oppositional positions: either the 'selfish, independent non-mother' or the 'moral mother'. This dichotomy seemed to represent an inability more generally to account for women's reproductive decision making in ways that did not invoke an essentialised relationship between women and maternity. I found myself asking whether these are the only options. And, if so, what is maintaining such limited options?

Definitions of womanhood have been a focus of feminist thought for some time. Traditional political and philosophical frameworks that continue to inform feminist thinkers usually also address this question. One of the central understandings of women's 'difference' in both mainstream and feminist theory has been via the identity of the 'mother' or women's 'unique' relationship to reproduction (Pateman 1992). Many feminist thinkers (Firestone, 1970; Beauvoir 1949; Friedan 1963; Rich 1976; Chodorow 1978; DiQuinzio 1999) have long maintained a strong critique of the reduction of women to their role as mothers in society<sup>5</sup>. Despite this critique, the 'maternal subject' is often still represented as the 'essence'

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<sup>5</sup> This idea that women's relationship with motherhood was always valorised by mainstream culture came under critical scrutiny from Black women including Aboriginal Australian women who highlighted that

of women's sexual difference and as such features strongly in discourses, both feminist and mainstream, surrounding reproductive politics in the period under consideration.

Many authors have noted that the woman equals mother equation is yet to be seriously challenged in the area of reproductive politics (Lewin 1995; Albury 1999; DiQuinzio 1999).

Dion Farquhar contends that

[a] key part of any feminist reproductive project should be the disarticulation, not only of maternity – which spans a complex social relation of desire – from women and women's bodies, but also of maternity from pregnancy (1996, p.185).

It is toward this project that I hope this thesis makes a contribution.

## **1.2 Time, Context and Structure of the Thesis**

This thesis will examine the field of feminist theory and reproductive politics in Australia with a particular focus on the period from 2000 until 2007. Whilst there have been 'peaks and troughs' in the fervour of debate over the years surrounding reproductive politics in Australia, I have chosen this period as it represents a significant 'peak' in such activity. In relation to abortion Barbara Baird observed at the time:

[w]hile the period since the liberalisation of abortion law and access to services in the 1970s has been marked regularly by political contests, these recent debates and legislative changes, staged across State/Territory and national arenas, comprise a time of significantly intensified political activity around abortion in Australia. (2006a, p.197)

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such arguments did not take into account their experiences where the right to mother and to be seen as legitimate mothers of their children has been questioned. See later discussion of this in Chapter 5.

During the same period debate over ‘single’<sup>6</sup> and lesbian women’s access to assisted reproductive technologies (ART) surfaced and was taken up particularly strongly within the media. This thesis will chart the antecedents to this period and explore some of the implications that follow on from my analysis of the debates that took place in Australia during that time.

In chapters 2 through 4 the thesis explores the discursive terrain of key feminist debates on abortion and ART. It provides a close reading of key texts that have come to inform the nature of reproductive politics in Australia. In order to provide adequate background to the Australian context I also draw upon particular feminist commentary and literature from the US that came to influence strongly aspects of the Australian debate. Chapters 5 and 6 focus on examining the public debate surrounding lesbian and single women’s access to ART with a focus on how the media represented this debate.

Increasingly, the media represents a key site for political contests, including feminist debate and commentary which was previously more often located within academic, community settings or within the ‘femocracy’<sup>7</sup>. The mass media is a particularly salient source for the examination of abortion and ART discourses. Throughout the period on which my research focuses (2000-2007), the media carried numerous articles and opinion pieces on reproductive issues in Australia. Many feminist theorists point to the influential role of the media in informing what is commonly referred to as a ‘post-feminist’<sup>8</sup> era (McRobbie 2004; Gill 2007).

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<sup>6</sup> I have chosen to place ‘single’ in inverted commas here in recognition of the fact that this term has social meanings and origins which relate to a woman’s relationship status in relation to heterosexual men. It often excludes lesbian women who are not in relationships and also functions to denote a ‘lack’.

<sup>7</sup> The term ‘femocrat’ has been used to refer to feminists working within government bureaucracy, particularly on gender related policy matters. See Eisenstein, H (1996) *Inside Agitators: Australian femocrats & the state*, Philadelphia: Temple University Press

<sup>8</sup> The term ‘post-feminist’ came into popular usage in the late 1980s and early 1990s to refer to both theoretical shifts within feminist thought and to signal a movement away from so-called ‘second wave’ feminism. The term was, and is, contested yet remains in usage. Some, such as McRobbie (2004, p. 255) refer to post-feminism as ‘an active process by which feminist gains of the 1970s and 80s come to be undermined’.

### 1.2.1 Situating the research questions

I will take the time here to sketch briefly the discursive space that reproduction and, in particular, abortion and ART, occupied in Australian public life in the period under consideration. Whilst I elaborate this theme in more detail later in the thesis, here is an important entry point to the questions that my thesis seeks to explore. It serves to map out the context within which early twenty-first century feminist approaches to reproductive issues exist. I cannot (and do not wish to) provide a comprehensive overview of events/debates; however, I will identify what I consider to be the key social, political and historical factors that came together in ways that pushed abortion, and to a lesser extent, single and lesbian women's access to ART, to the centre-stage of public debate in Australia throughout the period I will examine, 2000-2007. A resurgence of political and public debate on abortion began around 2000 and peaked in 2005. Indeed, in response to this resurgence the Australian feminist journal *Women Against Violence* released a special issue in 2007 titled 'Women's Right to Choose ... Again'. It contained a range of articles covering the various topics that had reappeared in the public realm as once again up for 'debate'.

A number of other social issues broadly connected with abortion or ART, such as paid maternity leave, family law, gay and lesbian rights, and the 'fertility crisis', were also noteworthy for their prominence in debates taking place in both the public and political realms over the same period.

Anti-abortion proponents have occupied a consistent place within this resurgence in political activity. This is nothing new; anti-abortion discourses have always been present to varying degrees throughout the history of reproductive politics in Australia. What has shifted is the



*focus* of the anti-choice lobby. There has been a strategic move toward three main areas of concern all voiced within a ‘women’s rights’ framework. Most significantly, there has been a *shift away* from the traditional anti-abortion approach of defending the ‘unborn child’. Indeed, rather than ignore the needs and concerns of the pregnant woman (as they have so often been accused of doing in the past) the focus of anti-abortion campaigners has increasingly moved towards developing a new set of issues all connected in some way to the alleged harms that women encounter when choosing abortion. In 2000 Australian anti-abortion campaigner Melinda Tankard Reist published the book *Giving Sorrow Words*. The book, based on interviews with women who have had abortions, details what Tankard Reist describes as the ‘repressed’ voices of traumatised women who have been silenced in the abortion debate. As Siedlecky suggests, “[t]he anti-choice lobby has set their sights on new areas of concern, including the ... long-term effects of abortion, a so-called epidemic of abortions and the numbers of ‘late’ abortions” (2005, p.16).

Whilst it is not my intention to examine this shift *per se*, I am interested in the reliance upon a particular set of ideas and understandings about women, pregnancy and ‘the maternal’ that informs what has been identified as a new ‘women’s rights’ discourse in anti-abortion politics (Cannold 2002). Despite the fact that public debate and discussion often centres on questions of the legality of or access to abortion, it is my suggestion that the battle for women’s reproductive freedom increasingly occurs at sites of discursive construction of meaning. In Australia, feminists and others have made significant inroads in areas such as contraception, abortion provision, access to pre and post natal care and, to a lesser extent, maternity leave. Shifts in dominant discursive constructions of women and maternity, however, have not moved at the same pace. Some may argue that this lack of movement is of little significance if women can access the services they need. Yet, it is these very same, seemingly intractable discourses surrounding women, motherhood and maternity that are utilised again and again in regular political ‘debates’ aimed at undermining such services.

This thesis will critically examine the ways various participants in such debates invoke these ideas. In particular, I highlight how many feminist discourses have constructed the maternal subject in relation to abortion and ART. It is my hope that a range of new strategic opportunities based upon a disarticulation of maternity from female subjectivity will become available as a result of a reflective and critical awareness of the ways in which particular constructions can, and have, been taken up by those wanting to restrict women's reproductive freedoms.

It must be acknowledged that the 'resurgence' of interest in abortion and the debates surrounding lesbian and single women's access to ART took place at a time in Australian political history characterised by a shift toward conservative politics, spear-headed by the Howard Coalition government, 1996-2007. This political climate produced significant challenges for those broadly concerned with human rights-based politics. Barbara Baird wrote at the time:

[t]his period, roughly since the election of the Howard federal government, has also been characterised as a period of the resurgence of racism and right-wing politics and, more recently, the rise of the religious right in Australian public life. (2006, p.198)

In the 2004 federal election the fundamentalist Christian-based Family First party emerged as another significant indicator of this shift towards conservative values.<sup>9</sup> This period (1996-2007) also witnessed what many feminists saw as a systematic dismantling of the 'women's sector' in Australia with the 'mainstreaming' of dedicated women's offices in many states

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<sup>9</sup> As Marion Maddox (2005, p.74) argues, "The real story, which we need to understand if we are going to make sense of the shifting political territory in which a Family First senator suddenly became a possibility, is the Howard government's increasingly overt embrace of the extreme end of conservative Christianity" in Maddox, M. (2005). *God under Howard: The Rise of the Religious Right in Australian Politics*. Crows Nest, Allen & Unwin.

and the de-funding of one of the oldest women's political lobby groups, the Women's Electoral Lobby (WEL).<sup>10</sup>

Against this political backdrop certain 'truths' were privileged at various points throughout the subsequent debates surrounding reproduction and lesbian women's access to ART. These 'truths' included the idea that there were 'too many' abortions and that 'the family' was under threat and needed to be protected. This form of argument was used during a series of significant events and public debates relating to reproductive politics between 2000 and 2007. These significant events included parliamentary debate focusing on RU486 in early 2006, the announcement in 2007 of a government-funded national pregnancy counselling service that would not refer women to abortion services, the 'controversial' screening in 2004 of a United Kingdom documentary showing an abortion on national television (purported to be the first to be shown on Australian television by the government-funded ABC), debate about second trimester abortion practices (often referred to as 'late' abortions), public declarations by politicians that abortion numbers are 'too high' in Australia, significant legal challenges and public debates over single and lesbian women's access to ART in various states, all set against the backdrop of broader policy discussions concerning paid maternity leave and the notion of 'work-life balance'.

The emergence (or re-emergence) of certain issues as 'problematic' for society is made meaningful (or possible) - not, as it is often argued, merely as a *response* to emerging 'facts' - but with reference to the surrounding discourses at the time. There are almost always competing 'problem definitions' which inevitably draw upon the various ways in which a problem is being represented in public debate (Curtin 2003). The dominance of a particular definition of the problem is usually the outcome of a complex interplay of both the power of those who get to speak (and therefore to define crucial elements of the specified problem)

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<sup>10</sup> See Summers, A. (2003). *The End of Equality: Work, Babies and Women's Choices in 21st Century Australia*. Sydney, Random House.

and the broader discursive landscape into which these definitions enter. In other words, what gets taken up is most often a reflection of the proverbial ‘sea’ that we are swimming in at the time.

### 1.2.2 Research questions

I am not the first to highlight the intractability of maternity or mothering as representing *the* defining feature of what it is to be a woman,<sup>11</sup> nor the first to note the persistence of the ‘woman equals mother’ equation both within feminist and other discourses surrounding reproduction.<sup>12</sup> Yet the feminist goal of disarticulating maternity from female subjectivity in a way that translates into practices of abortion and assisted reproductive technologies (ART) remains to be achieved.

I argue that the disarticulation of the maternal from female subjectivity is a crucial political goal for feminism. Until it is possible to undermine/destabilise the belief that the ‘essence’ of women’s sexual difference is represented by maternity, the broader feminist project of working towards political/social equality for women remains elusive. A feminist politics informed by the construction of women as mothers is ultimately reliant upon a limited essentialist version of sexual difference that ‘fixes’ women’s subjectivity to that of the maternal subject. This is problematic in that women are then reduced to, and understood via, the lens of maternity. Within such a schema a woman’s individual subjectivity is only

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<sup>11</sup> For two comprehensive overviews of how feminist theory has explored ideas connected to maternal difference see Hekman, S. J. (1999). *The Future of Differences: Truth and Method in Feminist Theory*. Malden, MA, Polity Press. and DiQuinzio, P. (1999). *The Impossibility of Motherhood: feminism, individualism, and the problem of mothering*. New York, Routledge.

<sup>12</sup> The following authors all note this in their work on reproductive politics, Albury, R. (1999). *The Politics of Reproduction: Beyond the Slogans*. Sydney, Allen&Unwin., Lewin, E. (1995). "On the Outside Looking In: The Politics of Lesbian Motherhood". in F.D. Ginsburg and R. Rapp (eds) *Conceiving the New World Order: The Global Politics of Reproduction*. California, University of California Press .and Farquhar, D. (1996). *The Other Machine: Discourse and Reproductive Technologies*. London, Routledge.

meaningful inasmuch as it can be related to her maternal subjectivity. Of course, many women will be constructed as having tenuous or weak claims upon the category of mother and maternal subjectivity and as a result will ultimately have less value as women within such discourses<sup>13</sup>. We can also see evidence of how this devaluing operates in the depiction of women who are childless or women who are assessed to be not appropriately ‘dedicated’ to the maternal role.<sup>14</sup> The resulting question is often ‘what kind of women are they?’ leading to a rigid policing of the categories of ‘woman’ and ‘mother’.

Debates surrounding reproduction and gender equality take place within a social context and with this in mind I have chosen to take two dimensions of reproductive decision making as sites to explore the representations of these issues within the Australian social and political context. The first site, abortion, is perhaps the most readily identifiable agenda item or issue of the feminist cause. I have chosen abortion precisely because of its central place within the political landscape of feminist politics and also for its ongoing ability to attract attention and interest in the public realms evidenced by media and political commentary over the years. Abortion also draws together some key feminist arguments around ‘rights’ and ‘choice’. Where abortion was once a key uniting issue of the feminist movement (Bryson 1999), it is increasingly the case that, in a ‘post-feminist’ age, ‘choice’<sup>15</sup> is located within the realm of individual responsibility that belies the continuing impact of gendered power relations in women’s lives (McRobbie 2004; Baker 2010). As a result, a discourse has emerged that situates women’s abortion decision making on a hierarchy of ‘bad’ and ‘good’ choices assessed on the basis of women’s responsibility to reflect the increasingly depoliticised values and norms of maternity in a neo-liberal age.

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<sup>13</sup> Aboriginal Australian women, for instance, experienced the forced removal of their children, now referred to as the ‘stolen generation’, as part of a broader government policy viewing Aboriginal women as inherently unsuitable as mothers. I explore this further in Chapter 5.

<sup>14</sup> Women who, for example, place their children in long childcare are often the subject of speculation on their appropriateness to parent in ways that men in their fathering roles are not.

<sup>15</sup> The term ‘choice’ has come to be strongly associated with the feminist movement yet is the subject of much debate and contention for feminists. I explore this in greater detail in Chapter 2.

Another reason for my focus on abortion is its ongoing potential to disarticulate the maternal from pregnancy. The very possibility of aborting a pregnancy potentially provides for both a symbolic and practical separation of pregnancy from maternal subjectivity for women. Despite this possibility (or perhaps because of this possibility) the collapsing of maternity and pregnancy lies beneath many feminist and non-feminist arguments surrounding abortion. There is evidence of this collapsing in public debate, policy, legislation and academic discourse. As a result, despite a committed and enduring feminist framework on abortion, women experience abortion within a narrow cultural space (Baird 1998).

The second dimension of reproductive decision-making examined in the thesis is that of single and lesbian women's access to assisted reproductive technologies (ART). Unlike abortion, ART and non hetero-coupled conception provides a relatively new site of reproductive decision-making and debate. 'Rights' and 'choice' continue to operate as central themes in feminist arguments on lesbian and single women's access to ART. As in relation to abortion, many feminists have noted the potential for ART to destabilise a unified notion of maternity and motherhood. ART are increasingly taken up by women who are constructed as having weak or ambiguous claims upon motherhood. Responses to the use of ART by lesbian and single women represents an ideal example of how discourses informed by a woman equals mother framework attempt to reinforce a fixed, rigid conflation of 'woman' and 'maternal'. Ultimately, such understandings come together in multiple ways to reinforce gender norms and inequality more broadly.

The discourses surrounding abortion on the one hand, and the use of ART by lesbian and single women on the other, demonstrate a strong commitment to particular constructions of the maternal subject, ones which circumscribe the maternal identity along sexuality, race and class lines. Abortion and ART are most often kept separate in debates surrounding women's reproductive choices. They are often represented as two discrete, and potentially opposing,

practices embodied by different ‘kinds’ of women: the first, by a woman actively rejecting maternity; the latter, by the woman desperate for it at any cost. My argument is that this sharp distinction is an artificial separation that functions to reinforce essentialised notions of the maternal and motherhood, reducing the complexity of abortion and ART to the expression of appropriate or inappropriate maternal desires. In this thesis I bring together feminist and mainstream reflections on both abortion and ART to examine the extent to which female subjectivity is linked in an essentialised way to the maternal in both realms and to explore the implications for feminist reproductive politics. By examining the links between the two topics and how they are addressed I hope to provide further insight into the implications of dominant (essentialist) constructions of maternal subjectivity for contemporary Australian reproductive politics.

One of the central features of the ‘cultural space’ which these discourses inhabit, draw upon and reproduce, has been the creation of the ‘good’ and ‘bad’ mother. Notions of the ‘good’ and ‘bad’ mother are intimately connected with and, in many cases, inseparable from, constructions of the ‘good’ and ‘bad’ woman. This ‘cultural space’ is produced and reproduced in many different ways within a particular culture. It is those with the most power within a culture that have the greatest influence upon the ‘taken for granted’ status of the beliefs and values underlying the above constructions. In this thesis I will focus on some of the key actors and voices within the landscape of reproductive politics in Australia. Solinger defines the area of reproductive politics as that which asks the question: “Who has the power over matters of pregnancy and its consequences?” (2005, p.3). It is my hope that, in looking closely at some examples of recent debates and controversy in Australia, the mechanisms for maintaining this narrow cultural space will not only be identified but opportunities for its disruption will become apparent.

My interest is in looking at specific instances of debate/crisis and ‘dilemmas’ surrounding abortion, and lesbian and single women’s use of ART, and asking what ideas or arguments are being promoted (at the exclusion/expense of others) or made more or less possible.

Central to my examination here is how the idea of ‘family’ has come to occupy an increasingly central place within broader political discourse surrounding social policy. The ‘family’ invoked within mainstream Australian political discourse throughout these debates is one characterised most strongly by whom it excludes. Aborting women, sole parents, lesbian mothers and same sex couples are key amongst these excluded groups.

As my focus is on feminist engagement with reproductive politics in relation to abortion and single and lesbian access to ART, this thesis will explore the development of feminist approaches to these two areas of reproductive politics and trace the influence of a ‘woman equals mother’ discourse within these approaches. I will also consider the possible implications and meanings that this continuing configuration may have for a new era of feminist reproductive politics.

### **1.3 Research approach: methodology and theoretical orientation**

This thesis provides a critique of public discourses on reproductive politics in Australia from a feminist perspective, as explained later in the Introduction (see 1.4). I have chosen to conduct this critique via a discourse analysis of abortion and lesbian and single women’s access to ART in Australia. I utilise two different sets of data to conduct my analysis. In the earlier chapters (2 through 4) I draw primarily upon western feminist approaches to abortion and infertility treatments, utilising predominantly academic literature from political science,



sociology, philosophy, media analysis, public policy and women's and gender studies. In the later part of the thesis (chapter 5 and 6) I draw upon mainstream media coverage and selected feminist and parliamentary debates in Australia. My rationale for drawing upon these two datasets is two-fold. As highlighted earlier, the media is increasingly the site of political contests including feminist debates. As this thesis will demonstrate, it is also the case that the realm of reproductive politics has broadened beyond that of academic feminism and the women's movement. In addition we have seen the rise of 'popular' feminism and a foregrounding of feminist commentators alongside mainstream commentators in the media. This thesis traces the connections between key discursive constructions of women and maternity that take place across these multiple sites of feminist influence and debate. By public discourses I refer to communication concerning various topics that takes place in the public sphere and which is often conducted across a range of forums such as the media, parliamentary debates, protest movements, or the courtroom. The thesis explores public discourses as a key site of meaning creation and transformation. The term 'public discourses' indicates the multiple sites and locations of these discourses rather than suggesting the possibility of any delineation between the 'public' and the 'private' nature of these discourses<sup>16</sup>. On public discourse analysis, Ferree *et al.* suggest:

[t]o understand the dynamics of a discourse, it is therefore necessary to ask about the actors who are meeting within the arena of public discourse, an arena that is most effectively organized and structured by mass media in modern societies. (2002, p.xiii).

Chapters 2 through 4 detail feminist debates and theoretical analysis that intersect with, inform and critique subsequent discourses surrounding reproductive politics in Australia. Chapters 5 and 6 take a specific focus, examining public discourses contained within the media and consider how abortion and ART are understood there. I examine how women's

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<sup>16</sup> I explore feminist critiques of the public/private split later in the thesis in Chapter 2.

relationship to ‘the maternal’ is constructed within public discourses, taking into account both feminist and non-feminist contributions to the ‘controversies’ that arise within the Australian media during the period under investigation.

This thesis interrogates the debates surrounding abortion and lesbian and single women’s access to ART in Australia that took place throughout the period 2000 until 2007. I draw attention to the mechanisms that produce and reproduce understandings which reduce women to a fixed and unitary maternal identity and those which have the potential to disrupt this unity. By examining abortion and ART alongside one another my intention is to question their ‘separateness’ within modern reproductive politics. I highlight the ways that particular meanings are privileged within the discourses emanating from the practice of keeping abortion, in particular, in a category all of its own. In doing so, this thesis reveals the contradictions and contestations that render the universalising ‘woman equals mother’ discourse inherently unstable.

In using the concept of ‘the maternal’ within this thesis I draw upon the multiple meanings the concept has for feminists. Primarily, I consider the term within an understanding of its discursive construction; that is, ranging from the idea of maternity as both a social practice and a physiological phenomenon to the idea of women as symbolically maternal. To view ‘the maternal’ or ‘maternity’ as a discursive construct is in no way to dismiss the ‘lived realities’ or experiences of, say, pregnancy or childbirth. Rather, it is to suggest that discourses are *practices* and in this way have material effects.

In describing this thesis as a ‘discourse analysis’ I signal my preference for a particular approach within the political and theoretical project of feminism. Discourse, at its essence, is about language in its broadest sense. It reflects an understanding of language as situated within, and drawing upon, particular sets of ideas, assumptions and norms that vary

according to socio-historical and political factors. Meaning, therefore, is a complex interplay of both the language available within a particular context and the *power* of that language to convey meaning. Discourse analysis, therefore, concerns itself less with questions of who said what and more with an explanation of the conditions under which such utterances are made possible and have the power to dominate meaning (Hacking 1986). In examining the 'conditions' of modern reproductive political discourses in Australia I turn my attention to an analysis of public discourses and various 'social texts' within these discourses that come together in producing and reproducing meaning. I refer to 'social texts' to indicate my understanding of these communication forms as *socially constructed* in their production of meanings. They can only be read alongside the socio-cultural context within which they operate.

Chapters 2 through 4 focus on examining key feminist texts that inform the debates in the period under examination. My focus will be on the era of 'new' reproductive politics; broadly speaking, these texts are the contributions by feminists that have taken place after legal reform in relation to abortion in Australia<sup>17</sup> and the advent of the 'new' reproductive technologies, roughly from 1969 onwards. These chapters contain a close reading of feminist literature and debates informing the three frameworks of 'rights/choice', 'moral/ethical' and 'health/medical'. These three frameworks are identified as particularly central to the debates surrounding reproductive politics in Australia and provide the context for the examination of media debates surrounding single and lesbian women contained in the final chapters.

Chapters 5 and 6 also contain a discourse analysis, focusing on debates contained within the Australian media and politics from 2000 until 2007. In these chapters the material examined

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<sup>17</sup> Abortion law in Australia varies from state to state. Most states still list abortion on the criminal code with the only exceptions being provided for via common law rulings or legislative amendments. See Cannold, L. (2011a). "Abortion law reform is still unfinished business." *Sydney Morning Herald* 8 Mar. Retrieved 2/2/2012, from <http://www.smh.com.au/opinion/politics/abortion-law-reform-is-still-unfinished-business-20110308-1blfw.html>.

is drawn predominantly from Australian newspaper media coverage of debates concerning abortion and single and lesbian women's access to ART. I undertook a database search for the period 2000 until 2007 utilising *ProQuest ANZ-Newstand*, a database that contains full text of all major newspapers in Australia and New Zealand. My intention was not to provide a systematic or quantitative analysis of the media coverage over this period but rather to gain a sense of the extent to which abortion and ART figured as issues worthy of media debate and coverage over the period examined. To this end I searched broadly, utilising the search terms 'abortion' and 'reproductive technology', restricting myself to those articles that appeared in Australian newspapers. For both abortion and reproductive technologies there was a 'peak' in newspaper items for the years 2005 and 2006. For abortion, coverage ranged from a low of 34 articles in 2000 to a peak of 788 articles in 2005. In the case of reproductive technologies the same two years stood out. In 2000 there were 38 articles that mentioned 'reproductive technologies' somewhere in their text to a peak of 266 articles in 2005. Chapter 5 examines the social and political context surrounding these peaks and provides a critical analysis of the public discourses on abortion and reproductive technology at the time. As with the earlier chapters, the methodology employed in relation to the media articles I sourced involved a close reading of the texts focusing on highlighting dominant themes within the articles with a view to ascertaining how women and maternity were constructed within the articles. Whilst I collected and read many hundreds of articles produced in the period 2000-2007, it was not my purpose comprehensively to review or detail the content of these articles. My purpose was to identify the themes that came to dominate within the debates surrounding lesbian and single women's access to ART. My analysis in Chapters 5 and 6 focuses on these themes and considers some of the links between these themes and the constructions of women and maternity that I consider in early chapters in relation to abortion.

In my analysis of media debates I draw upon insights provided from cultural studies where semiotic concepts of textual analysis provide useful tools for examining how societies create meaning. “Semiotics is essentially concerned not so much with what things mean but how they mean and how they come to be seen (and recognised) as meaningful” (Fuery 1994, p.5). Whilst drawing upon the insights that a semiotic approach to the media provides, my analysis of media coverage of the selected issues may be better described as a qualitative content analysis informed by a feminist theoretical framework. Neuman describes content analysis as:

... a technique for gathering and analysing the content of text. The ‘content’ refers to words, meanings, pictures, symbols, ideas, themes, or any other message that can be communicated. The ‘text’ is anything written, visual, or spoken that serves as a medium for communication. (1997, pp.272-273)

During this period (2000-2007) various ‘actors’ participated in the framing of the debate, including politicians, feminists, academics, the medical profession, ethicists, religious/church commentators and the ‘general public’. Not all actors, however, wielded the same influence over the subsequent direction of the debates or the policy outcomes. Similarly, only knowledge claims of a particular kind were routinely reproduced throughout the mass media in the period under review. In examining public discourses, and in particular the role of the media, I intend to draw upon insights provided by Ferree *et al.* (2002). In their detailed comparative analysis of how abortion discourse has been shaped in both the United States and Germany, I find Ferree *et al.*’s (2002) concept of ‘discursive opportunity structure’ particularly helpful. They describe the *discursive opportunity structure* as:

... the framework of ideas and meaning-making institutions in a particular society. It provides a ... tool for understanding why certain actors and frames are more prominent in public discourse than others. (Ferree *et al.* 2002, p.62)

The analytic concept of ‘discursive opportunity structure’ directs our attention to the unique features of the context in which public debates occur. Ferree *et al.* use the example of the ‘playing field’, arguing that

...the contours of the playing can change suddenly in the middle of the contest because of events that lay beyond the control of the players .... This complex playing field provides advantages and disadvantages in an uneven way to the various contestants in framing contests. (2002, p.62)

This concept is helpful not only in relation to the importance of ‘locating’ debates surrounding abortion and ART in social context, but also in drawing attention to the ever-changing dynamics of the ‘playing field’.

*Discursive opportunity structure* as an analytic concept highlights how discursive claims are made more or less possible depending on the special (and sometimes, unique) features of the setting in which the claims are being made. This is particularly relevant in the area of reproductive politics. Often, when it comes to abortion, for instance, the claims that are made are presented self-evidently as a ‘problem’ upon which we need to act and produce a solution. The processes by which such claims are established as ‘facts’ in public discourse are often invisibilised. In her analysis of abortion in Sweden and the United States in the late nineteenth and early twentieth century, Annulla Linders (1998) explores how a similar social problem at the time – the number of abortions – was met with vastly differing legislative responses. She argues that abortion was constructed very differently in each country, pointing out that such differences did not emerge from ‘thin air’. Rather, she suggests that:

[t]he dominant arguments put forth by claimsmakers in these two nations were derived from, and introduced into, very different social contexts. Comprised of various historical, cultural, and political elements, this larger context had a profound impact on the interpretive frames that gained a foothold in each nation, on the range of political actors that pursued the problem, and on the viability of proposed solutions. (Linders 1998, p.489)

The argument here is not that the social context *causes* or determines the problem or what is presented as the solution/s, but that it forms a ‘backdrop’ against which claims-makers define problems and identify solutions (Linders 1998). To this end, a significant proportion of my examination of public discourses in this thesis examines the ‘playing field’ upon which the various actors made their claims along with a content analysis of the various texts produced.

Utilising the discursive opportunity structure approach to examine the ‘playing field’ allows me to highlight the ‘background detail’ to these debates and, more importantly, draws attention to previously invisibilised mechanisms through which rendering one ‘truth’ or ‘fact’ becomes preferential over another.

I am also interested here in the ongoing centrality of abortion and, more recently, ART as ‘claim-worthy’. Linders’ (1998) research is among the vast volumes attesting to the persistence of abortion’s construction as a social problem over the years. Whilst I do not intend to delve into the literature on social problems in great depth, it is my contention that the ‘woman equals mother’ equation is a central organising concept upon which subsequent problem definitions in the realm of reproductive politics rely. A good example is the practice of selective foetal reduction, a technique that involves reducing the number of implanted pregnancies in a woman’s body as part of an ART procedure. It is used as a way of either increasing the viability of the remaining pregnancies or limiting the number of pregnancies

according to the woman's wishes. This practice is rarely singled out in claims (or 'counted in') regarding 'too high' abortion numbers. Following Bacchi (1999), I argue that what *is* included in these claims is dependent upon what the problem is *seen to be*. With this in mind, I am also interested in what does not get included in problem definitions. The power of a claims-maker to make a claim relies upon the ability for selective and reinforcing aspects of the problem to be highlighted *at the same time as* invisibilising other aspects of the problem. I wish to move beyond simply looking at the factors which determine the relative likelihood of a claim being made or a discourse taken up to examine why a claim is made at all. I argue that in relation to abortion and ART use by single and lesbian women this uptake is determined in large part by their discursive relationship to the maternal or motherhood.

#### **1.4 On taking a feminist approach**

My goal in considering all of the above is to trace the multiple sites within which the discursive construction of women's reproductive lives, and abortion and ART in particular, is produced. When, at the outset, I described my focus as on feminist discourses, I did not mean to imply that these discourses could be located in a discrete fashion within the politics of reproduction in Australia. I am aware, as are most feminists, that various definitions and ways of being feminist exist. Whilst debates surrounding these definitions and practices are ongoing and worthwhile, I do not wish to engage with them here. For my purposes, feminism expresses a set of values or political commitments that identifies gender as an hierarchical organising category within human relations that disproportionately limits the opportunities and wellbeing of women. A feminist is committed to a range of practices that work towards the elimination of such gender-based inequality. As a feminist, I believe that feminism is the most productive and useful site and tool for thinking, practice and agitation toward the goal of gender equity in society.



Throughout this introductory chapter I have been referring to my use of a ‘feminist theoretical framework’ in this thesis. Whilst chapters two and three explore in greater detail various feminist theoretical perspectives on reproduction, I will detail briefly what I mean by taking a ‘feminist’ theoretical approach to the research questions explored in the thesis.

By taking a feminist approach I refer less to a disciplinary or academic location than to an ongoing critical intervention that is found in a range of disciplinary or academic ‘homes’. By naming it as such I am also explicitly identifying my location as an author, rather than claiming to be an objective or impartial observer. Indeed, as comments at the beginning of this thesis attest, and the oft-cited feminist slogan proclaims, ‘the personal is political’. This slogan emerging from second-wave feminism can be seen to refer not only to the expanding of the political lens from the ‘public’ into the ‘private’ sphere but also the understanding that the personal reflects and affects the political. Prior to the development of a feminist lens the realm of the ‘personal’, and concerns associated with it, were the focus of psychological and psychiatric enquiry. In destabilising the category of ‘the personal’ at the same time as expanding the realm of the political, feminists successfully exposed the heretofore unexamined gendered nature of social institutions, including academic enquiry. A feminist framework, therefore, will at its essence problematise the taken-for-granted, the assumed and the ‘straight-forward’ in any field of social endeavour or practice with gender as its central concern. By this I do not mean to imply that there is a fixed, readily defined category of ‘gender’ or ‘woman’ with which feminist frameworks necessarily engage. My exploration of abortion and ART in this thesis has at its core concerns related to how the ‘maternal’ is defined, often in such a way that is reliant upon a fixed idea of gender difference for its coherence. Indeed as Judith Butler suggests:

... every time that specificity is articulated, there is resistance and factionalization within the very constituency that is supposed to be unified by the articulation of its common element ...

The effort to characterize a feminine specificity through a recourse to maternity, whether biological or social, produced a similar factionalization and even a disavowal of feminism altogether. (1992, p.15)

Whilst this thesis does not directly engage with this core concern within feminist theory, my hope is that the exploration of the maternal within reproductive politics contained in this thesis proves helpful in thinking about these questions. In relation to this Judith Butler offers helpful observations about possibilities for feminism:

... if feminism presupposes that 'woman' designates an undesignatable field of differences, one that cannot be totalized or summarized by a descriptive identity category, then the very term becomes a site of permanent openness and resignifiability. (Butler 1992, p.16)

## **1.5 Chapter outlines**

This thesis takes public discourses on abortion and ART in Australia as its main focus. It brings together an analysis of feminist and mainstream contributions to these discourses.

Chapter Two begins with an overview of feminist theoretical perspectives on reproduction, abortion and ART precipitant to and concomitant with the period under investigation (2000-2007). I focus predominantly on feminist academic literature and sources of feminist theory that took place in western countries from the 1970s onwards as it is these discourses that most significantly informed the debates that I examine in the Australian context from 2000 to 2007. I chart the development of key concepts in feminist approaches to reproduction such as 'choice', 'rights', 'control' and 'freedom'. This chapter critically examines the legacy of liberal political philosophy contained within these approaches, detailing some of the difficulties this legacy has posed for feminist reproductive politics. It goes on to articulate the political and theoretical crossroads that modern feminism finds itself at, particularly in

relation to discourses surrounding the use of ART and the re-examination of a ‘moral’ or ‘ethical’ approach to abortion.

Chapter Three explores in-depth one of the most influential discourses informing debates surrounding abortion and ART in the period under examination, that of health/medicine and bioethics. I focus here on examining key seminal texts, including the formation of ‘bioethics’ committees and their theoretical underpinnings stemming from medicine, philosophy and the fledgling consumer health rights movement, with a particular focus on the Australian bioethics movement that had its beginnings in the 1960s and 70s. This chapter traces the development of a health/medical approach to abortion as both a pragmatic feminist strategy and as an extension of the ever-increasing power of health and medical discourses to define social problems and experiences. It examines how abortion and ART became constructed within mainstream health, medical and later, ‘bioethics’ discourses, and how the women’s health movement and feminist bioethics responded to these developments.

Chapter Four critically examines the development of feminist moral discourses on abortion leading to and during the selected period of study. Using United States-born Australian feminist ethicist Leslie Cannold’s *The Abortion Myth* as a key example of this approach along with the work of United States feminist Naomi Wolf, this chapter details the foundations of feminist ‘ethic of care’ moral philosophy and explores some of the limitations of its emphasis on ‘care’, ‘responsibility’ and ‘mothering’. This chapter provides a critical analysis of this approach, in particular its reliance upon the construction of a hierarchy of morally acceptable abortion decisions. I conclude that such approaches rely too heavily upon the development of a feminist moral approach based upon women’s relationship to maternity and motherhood.

Chapter Five explores the various factors that influence participation and the ability to create meaning within media debates and how this applies to debates surrounding abortion and access to ART for lesbian and single women in Australia. In this chapter I examine how the social context, in particular, public discourses within the media come to shape social problems and what comes to be understood as ‘controversial’. The chapter focuses on the various contributors to the political contests surrounding reproductive politics in the period under consideration and how particular voices were given more discursive space to define the problem over others.

Chapter Six examines newspaper media coverage of debates surrounding two separate yet interconnected realms of maternal experience in Australia, lesbian and single women’s access to ART. Focusing on the period between 2000 and 2007, I examine how the legal challenge by a single woman and her doctor against restrictions to her accessing ART flowed into a debate concerning lesbian women’s access to ART. I argue that the media coverage of these debates centred on a limited range of discursive constructions of women and maternity, reinforcing essentialised notions of women and ‘the family’. I conclude that in these discourses, in common with the moral approaches taken to abortion, we again find constructions of ‘deserving’, ‘underserving’ and ‘good’ and ‘bad’ mothers. I explore the reasons behind these characterisations and the difficulties that they pose for a feminist approach that seeks to challenge the ‘woman equals mother’ discourse within reproductive politics.

# Chapter 2     Setting the scene: feminism and reproductive politics

## 2.1 Introduction

This chapter sets out to chart the background to debates about reproduction in Australian feminism in the period under consideration (2000 – 2007). I begin with a brief overview of the key areas of disagreement and debate amongst feminists and the origins of these debates. I then explore in more detail the feminist ‘rights’ discourse in relation to reproduction, its liberal legacy, the late 20<sup>th</sup> century, early 21<sup>st</sup> century neo-liberal context and possible implications for the politics of abortion and ART today.

Traditionally, reproductive ‘freedom’, specifically, abortion ‘rights’, has been viewed as a central unifying issue amongst feminists. Valerie Bryson (1999) has argued that throughout the 1980s abortion seemed to be the one issue that united feminists. This was expressed in the “belief that women have a right and a need to control their own fertility” (Bryson 1999, p.148). Susan Sherwin, similarly, has highlighted the fact that:

[d]espite the diversity of opinion among feminists on most other matters, virtually all feminists seem to agree that women must gain full control over their own reproductive lives if they are to free themselves from male dominance. (1994, p.316)

Despite this, the problem of how to take account of women’s specific relationship to reproduction has consistently proven problematic for feminist theorists. Feminist scholarship in the 1990s moved toward a re-examination of some of the core themes and concepts that feminists have relied upon to inform their approaches to reproduction.

During the 1990s central concepts that previously provided for agreement amongst feminists, increasingly became the target of further feminist interrogation and debate.

Writing in 1999, Bryson highlights this:

... a number of more deep-seated disagreements and debates have emerged among feminists... These disagreements are linked to theoretical disputes about whether free choice is possible in a patriarchal, capitalist society and whether feminist demands should be expressed in terms of 'rights' at all. (1999, p.149)

To complicate matters further, in the 1980s feminists had been confronted with the spectre of 'new reproductive technologies' (NRT)<sup>18</sup> which are now more commonly referred to as 'assisted reproductive technologies' or ART – the term I will use in this thesis. They soon realised the contradictory nature of some of the most reliable arguments used in relation to abortion when applied to other issues in the area of reproductive politics. Against the feminist catch-cry of 'women's right to choose', Jocelyne Scutt insisted at the time: "[w]e must not confuse 'choice' with the demand of women to the right to control our own bodies" (1988b, p.182). What Scutt's argument had touched on was the translation within feminist discourse of the original demand for women to have 'control' over their reproductive lives and the more popular expression of this as a 'woman's right to choose'. Western feminism's emphasis on choice made sense, however, within the dominant climate of political liberalism. Janice Raymond, a fierce opponent of ART has argued:

[t]here is a vast difference ... between women's right to choose safe, legal abortions and women's right to choose unsafe, experimental, and demeaning technologies and contracts. One

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<sup>18</sup> A note on terminology: whilst the cluster of interventions referred to in this thesis were previously called 'New Reproductive Technologies', I will, from this point on, use the more current term 'Assisted Reproductive Technologies' (ART) to encompass the broader range of technologies and interventions currently available, reflecting thirty years of their history in Australia, except when using direct quotes that use the term NRT.

allows genuine control over the course of a life; the other promotes abdication of control over the self, the body and reproduction in general. (1995, p.xi)

Those feminists who opposed ART often framed their arguments in ways that not only erased the connections between abortion and ART but also constructed a vision of an ideal reproductive ‘choosing’ woman who strongly resembled the ideal of the liberal individual. This woman was constructed as able to make ‘rational’ decisions to freely ‘choose’ amongst reproductive options. In this way, such discourses reinforced one of the central features of liberal conceptualisations of the individual, the ‘rational’ self. In this scenario, abortion is actively constructed as the choice of the rational woman whereas a woman’s choice to utilise ART is characterised as being made by women who are ‘duped’ by the patriarchy. In other words, ART were seen to represent a false choice for women. Invoking the ideal of ‘choice’ in this way was rather a contradictory outcome for a group of feminists who could largely be described as ‘radical feminists’ and therefore in opposition to liberal individualist approaches to women’s oppression, including its focus on autonomy and choice. Radical feminism, with its focus on patriarchy as the ‘root’ cause of all oppression, generally argued that women cannot exercise true ‘choice’ until the system of patriarchy, or male domination, is overthrown in all its forms. Liberal feminism, on the other hand, argued for reforming rather than ‘overthrowing’ the various systems governing western liberal democracies. Increasingly, it became clear that the advent of ART seemed to muddy the water of ‘choice’ for feminists<sup>19</sup>.

Yet this was not the first sign of cracks in the traditional arguments that feminists had employed surrounding reproductive ‘freedom’. Some feminists had already suggested that

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<sup>19</sup> The practice of delineating between different versions of feminism based upon differences in underlying philosophies and /or approaches toward political action became increasingly commonplace throughout the 1970s, 80s and 90s. This approach has increasingly been critiqued over the subsequent years. Despite this, however, it remains useful to point out some of the key differences that underpin feminist approaches. For an overview of the definitions of and uses of different versions of feminism over the years see Tong, R (2008). *Feminist Thought: A more comprehensive introduction*. New York, Westview Press

the liberal theoretical tradition from which liberal feminist claims for freedom originated, was inherently problematic.<sup>20</sup> They argued that women's 'difference' was insufficiently accounted for within this tradition and therefore reproductive issues would remain difficult to theorise.

Beginning with the publication of Carol Gilligan's *In a Different Voice* in 1982, feminist approaches to the body, morality and ethics informed by feminist theories of 'difference' started to have a major influence on the area of reproductive politics. It became clear that the question of women's difference was becoming central to the debates surrounding reproductive freedoms. Feminist strategies based upon women's difference, however, had the potential to produce contradictory political outcomes. This was especially the case when it came to the pregnant body. As Carol Bacchi has noted, "[p]regnancy was commonly recognised as women's 'difference', with unfortunate effects for women" (1990, p.112). Attempts to take into account women's unique 'differences' from men in the workplace, for instance, paved the way for the introduction of 'protective' legislation in some industries, which many argue resulted in some women being further discriminated against on the grounds of reducing the risks to the pregnant or potentially pregnant body in the workplace (Bacchi 1990).

Pregnancy became the key battleground for debates surrounding what Bacchi (1990) has referred to as the 'sameness/difference framework' in feminism. When dealing with the law and social policy should women be treated the 'same as' or 'different from' men? Of course, this rather simplistic dichotomy did not represent feminist thinking in all its forms at the time, yet this was the version of the debate most often reproduced or taken up in the media and in public discourse. As Zillah Eisenstein asserts, "sex/gender specific legislation is not

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20 Zillah Eisenstein provides an excellent examination of how the pregnant body, for instance, is problematic within liberal conceptualisations of 'equality' in Eisenstein, Z. (1998). *The Female Body and the Law*. Berkeley, University of California Press. See also Eisenstein, Z. (1984). *Feminism and Sexual Equality: Crisis in Liberal America*. New York, Monthly Review Press.



inherently problematic or progressive. It is made so by its aims and its political context” (1998, p.206).

Feminists asserted that women’s experiences of pregnancy or childbirth did not fit well within liberal conceptualisations of the individual, which were based upon notions of an abstract, autonomous self. Legislation based upon these understandings, therefore, could not adequately represent women’s needs or experiences. Many feminists argued, for instance, that pregnancy could not be easily viewed as the ‘same as’ any similar condition that men experienced and, on this basis, gender-specific law and policy would be more appropriate. Not all feminists agreed with this argument, however, and many argued for a ‘gender-neutral’ approach to avoid a possible essentialising of women via their reproductive capacities. A wide range of laws and policies governing gender relations in general, and pregnancy in particular, was instituted in Australia, the United States and the United Kingdom throughout the 1980s and early 1990s.<sup>21</sup>

It became clear that feminists needed to be strategic in the way they invoked concepts such as ‘sameness’ or ‘difference’ in order to achieve changes to policy and the law in areas central to women’s equality, such as sexual violence, reproductive freedom and employment.

Increasingly, feminists have located the reproductive issues with which they wanted to engage within particular discourses. The most significant of these include the ‘rights’, ‘health/medical’ and, more recently, ‘moral’ discourses. This development has had its benefits and costs, as Australian feminist Rebecca Albury observes in relation to feminism’s engagement with the medical model:

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<sup>21</sup> For a discussion of various legislative and policy approaches and the ‘sameness and difference’ dilemma see Bacchi, C. (1992). "Do women need equal treatment or different treatment?" *Australian Journal of Law and Society* 8, pp.80-94; Phillips, A. (1991). *Engendering Democracy* London, Polity Press; Lister, R. (1995). "Dilemmas in Engendering Citizenship." *Economy and Society* 24(1), pp.1-40.

[f]or the most part this engagement has strengthened their practical political analysis, but one cost has been the contraction of the analysis of what is at stake in debates about reproduction. (1999, p.13)

Taken separately, however, neither ‘the moral’, ‘rights’ or ‘health/medical’ perspective enables feminists to engage in the broader analysis required for an understanding of the *politics* of reproduction, that is, to explore the underlying assumptions, beliefs and meanings behind particular conceptualisations or approaches, and how these may produce and reproduce a range of power relations in society. This limitation has often translated to gaps or silences in the debates surrounding reproductive issues like abortion or ART. In common with the debates surrounding women’s ‘difference’ or ‘sameness’ in relation to the law, the introduction of feminist theoretical dilemmas or contradictions into many of the broader public debates surrounding reproduction may unnecessarily confuse the issue or produce seemingly undesirable outcomes. Despite this, such ‘gaps’ and ‘silences’ are important indicators of feminist theoretical issues that remain unresolved whilst the focus is on pragmatic and strategic solutions, such as affordable, accessible abortion services. Here, I agree with Albury who suggests that rather than retreat from the language of ‘rights’ or ‘choice’, for instance, “activists must find ways of extending the analysis of reproductive issues and of linking campaigns in ways that demonstrate the connections among the issues” (1999, p.20).

The next section looks in more detail at the feminist ‘rights’ discourse in reproductive politics. I will explore its roots in political liberalism, the more recent ‘neo-liberal’ turn and its application to the issues of abortion and ART. Finally, I discuss some of the limitations of a rights-based approach for feminists in relation to the challenges of modern reproductive politics in Australia.

## **2.2 The liberal legacy and the current neo-liberal context: ‘choice’, ‘control’ and ‘rights’**

‘A woman’s right to choose’, a popular slogan of 1970s and 1980s second-wave feminism’s fight for women’s right to access abortion, has become an increasingly vexed catch-cry for modern day feminism. As Albury has argued:

[t]he importance of choice is asserted as if the fact of choice itself is a solution to the social problems arising from relationships between women and men. (1999, p.21)

One reason for both the popularity of ‘choice’ as a framework and, at the same time, its limitations can be traced to its roots in liberal political philosophy. Many feminists have argued that the liberal political tradition upon which arguments for ‘choice’ and ‘rights’ are based has not translated well to women’s needs in the context of reproduction (and many other areas). These feminists have problematised the translation of key liberal concepts based upon the liberal individual to the realm of reproductive freedoms for women. With the development of ART the situation became even more complex. Janice Raymond warned of the consequences of what she calls ‘reproductive liberalism’, stating:

reproductive liberalism provides women with a supposed liberty that requires women to give up more freedom than we get; an individualistic inventory of reproductive rights in which almost anything can be claimed as a right; a gender-neutral theory and reality of rights and freedom; a concept of choice that is reduced to the right to consume; a right to privacy that is more accurately a right to private enterprise in women’s bodies; and a legal positivism separating rights from any substantive and ethical base of justice. (1995, p.77)

American feminist Rickie Solinger (2001) suggests that the move away from a mainly rights-based approach taken in feminist campaigns for reproductive freedom towards one

framed in the language of ‘choice’ had some specific strategic appeal in the liberal-individualist market setting. She observes that;

[m]any people believed that “choice” – a term that evoked women shoppers selecting among options in the marketplace – would be an easier sell; it offered ‘rights lite’, a package less threatening or disturbing than unadulterated rights. (Solinger 2001, p.5)

Not all feminists took such a dire view of liberalism in relation to reproduction, yet it is worth exploring the key points of the critique of arguably one of the most successful and still widely invoked discourses in reproductive politics – the liberal right to choose.

We do not have to look far to find reference to the concept of choice and rights in feminist campaigns surrounding a range of reproductive matters, especially abortion. ‘My body, my choice’ and ‘a woman’s right to choose’ are still the two most widely invoked feminist slogans in the battle for reproductive freedoms. Yet, the ‘choosing individual’ upon which liberal arguments for choice are predicated, relies on an understanding of the individual that has been the focus of feminist critique for many years. Two aspects of liberalism are arguably the most problematic for feminist theorists, that is, the separation of the public and private spheres, and the construction of the individual. As Carole Pateman explains:

[t]he liberal contrast between private and public is more than a distinction between two kinds of social activities. The public sphere, and the principles that govern it, are seen as separate from, or independent of, the relationships in the private sphere. (1989, p.119)

Within liberal philosophy the public sphere is the right and proper place for political inquiry and the realm within which citizens enact their civil duties and responsibilities. Central to the liberal tradition is the citizen. The citizen and the protection of their rights is the basis upon which a civil society is founded. Independent, autonomous individuals, therefore, are seen to

engage with one another on the basis of social contracts that limit some rights in exchange for an agreed set of values or goods that society deems necessary for its efficient functioning. Much has been written about the idea of a social contract, especially the extent to which women and other marginalised persons have had the ability to freely participate in its negotiation. Women's voices, needs and desires are assumed to be adequately reflected via the presence of their husbands and fathers in the public realm and based upon their relationships within the family in the private sphere. In this way, feminists argued that women's voices were either misrepresented, narrowly interpreted or, indeed, silenced.

To be clear, it is not necessarily the case that all feminists have a problem with the distinction between the public and private spheres *per se* but that many (Cohen 1996; Eisenstein 1981; Pateman 1988) would argue that the public sphere is predicated upon particular arrangements within the private sphere and that these arrangements have political consequences. Keeping the private sphere out of the realm of political inquiry also keeps these arrangements out of political debate. The second-wave feminist slogan 'the personal is political' is a commentary on this separation and the consequences of this for an analysis of women's lives. In this way, feminists have drawn attention to women's reproductive and caring labour within the private sphere and how men's participation in the public sphere is facilitated by this invisible labour.

Classical liberal theory relies upon the notion of the 'abstract individual'. The more extreme version of this notion is represented by the 'mushroom' scenario that liberal theorist, Thomas Hobbes, created:

consider men as if but even now sprung out of the earth, and suddenly, like mushrooms, come to full maturity, without all kind of engagement with each other. (1651 (1972), p.205)

Feminists have argued that this ‘abstract individual’, despite more recently being presented as gender neutral, continues to reflect the characteristics, experiences and, most importantly, the power of men in society. Crucially, the notion of an ‘abstract individual’ fails to account for relationships of dependency and interdependency that characterise much of human life, the most paradigmatic of these represented by the pregnant body. Modern day liberal theory has attempted to translate the rights that stem from this ostensibly male individual to those of all individuals regardless of gender. Susan Okin (1989) has described this attempt to ‘de-gender’ the liberal individual in order to accommodate women as ‘false gender neutrality’. Anne Phillips concurs, “[f]or contemporary feminists, the individual is highly suspect. Behind his supposedly gender-free guise, he remains unmistakably a man” (1991, p.33).

The main problem with relying on liberal rights and choice as the basis for feminist arguments in favour of reproductive freedoms is that, without a full and proper examination of the liberal individual, the rights women gain can become meaningless. It may seem fair and reasonable for the ostensibly gender-neutral rights-bearing individual to be granted rights within the public sphere – to something like abortion – on the basis of a right to have ownership over one’s body. It seems less fair, however, if we consider that this ‘person’ seeking abortion is not genderless and is indeed a woman for whom the ongoing impact of a gendered society may mean that her decision is circumscribed by such realities as the sexual division of domestic labour, responsibility of childcare, discrimination in the workplace and financial disadvantage. The ‘right’ for men to abortion is meaningless. On a practical level we can see that this ‘blind spot’ in liberal rights-based arguments can result in some fairly empty victories for women. In the United States for instance, the historic 1973 *Roe v Wade* abortion rights decision did not have a significant impact on women’s *access* to abortion. It changed the legal status of abortion, yes, but many would argue that it did very little to address women’s concrete needs in relation to true reproductive freedom. Women in the United States today often face unreasonably high financial costs and need to travel

significant distances in order to exercise their ‘right’ to an abortion. As Rosalind Petchesky observed, women’s reproductive choices are:

... constrained by a series of related economic, political and social realities. These include severe shortages in government-funded social services, especially child care and health care; the low pay of jobs generally available to women ... ; and the rise of wife battering and child abuse within the male-dominated family. (1984, p.105)

While Petchesky made the observations in relation to the United States context over twenty years ago, a similar claim would not be unreasonable for the vast majority of countries today.<sup>22</sup> One of the critiques, therefore, of feminists framing their claims for reproductive freedoms in the language of liberalism is that its narrow focus is such that substantive change in women’s lives is not possible within its framework.

Writing some twenty years later, Solinger echoes Petchesky’s concern. She observes that the language of ‘choice’ within late capitalist neo-liberal market economies increasingly functions in a way successfully to divorce the ‘choosing individual’ from the context in which these choices are made (Solinger 2001). In other words, the social context, including ongoing gender-based inequalities, are obscured by the language of ‘choice’. Feminists reflecting on the move toward the concept of a ‘postfeminist’ era argue that this concept reflects a widespread belief, promoted and sustained within popular culture, that situates ‘choice’ as the ultimate freedom. Further it promotes this proposition as evidence that feminism has achieved its aims and, as such, is redundant in the lives of the current generation of young women (McRobbie 2004; Gill 2007; Baker 2010). These developments have taken place within the context of the shift toward neo-liberalism as the dominant political and cultural paradigm for modern western economies. Neo-liberalism promotes the

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<sup>22</sup> For an overview of access to abortion worldwide see Singh, *et al.* (2009). *Abortion worldwide: a decade of uneven progress*. New York, Guttmacher Institute.

belief that within societies characterised by freedom of the market and economic growth the individual is most likely to experience the most freedom. Key amongst these freedoms is the expression of 'consumer citizenship'. Within this setting, ideas of social inequality and hierarchy have been replaced with notions of individual responsibility and 'mutual obligation'. For these reasons many have suggested that the increasing dominance of neo-liberal ideologies poses extra challenges for feminism where disadvantage and inequality are increasingly invisibilised (Duggan 2004; Walkerdine 2004; McRobbie 2009).

Without the broader analysis of what is at stake for women when they demand reproductive 'choice' we can have outcomes that provide 'choice' yet may perpetuate the very conditions that sustain women's disadvantage. Solinger (2001) sites the entrenched class and race divisions perpetuated by the idea of 'choice' in relation to adoption in the United States. Socio-economic realities mean that women living in poverty relinquish children for adoption by couples with greater access to economic resources. The possibility of new 'choices' opening up, such as the use of surrogacy by wealthy gay couples, is often provided as evidence of progress in the face of previous inequality. Some commentators have highlighted the lack of attention paid to the concrete circumstances within which such 'choices' take place (Riggs and Due 2010). Duggan (2004) suggests that one of the outcomes of the neo-liberal focus on 'choice' has been the breaking down of old alliances between various 'outgroups' such as those experiencing oppression or inequality as a result of class, race and sexuality. Similarly, sex selective abortion in countries favouring male offspring is another example of how the concept of 'choice' utilised in isolation can reproduce unequal gender relations even when it is women making the choices.<sup>23</sup>

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<sup>23</sup> See Moazam, F. (2004). "Feminist Discourse on Sex Screening and Selective Abortion of Female Foetuses." *Bioethics* 18(3), pp.205-220.



### 2.2.1 Assisted reproductive technologies

The first so-called ‘test-tube’<sup>24</sup> baby was born in 1978 and, since then, developments in the field of reproductive medicine have increasingly been the focus of feminist comment. With the advent of Assisted Reproductive Technologies (ART) and other ‘treatments’ surrounding infertility, new dilemmas and contradictions surrounding ‘choice’ became apparent for feminists. Ingrid Makus highlights one of these:

[t]he fear is that they [NRTs] threaten to undermine women’s right to govern their own bodies and labour power – which is secured by women’s right to abortion. It may also explain why many feminists simultaneously reject greater access to the ‘new reproductive technologies’ and reaffirm women’s access to what has become the ‘old reproductive technology’ – abortion. (1996, p.142).

For many feminists a straight-forward application of ‘choice’ and ‘control’ in the liberal sense did not seem to apply as easily to the newly developed reproductive technologies. Here, again, the feminist demand for women to be able to have ‘control’ over their reproductive lives through the ‘right to govern their own bodies’ is provided as the central rationale behind feminist interventions. Yet this desire for ‘control’ was expressed in feminist political campaigns as ‘choice’, a concept that many feminists, particularly radical, socialist and postmodern feminists, had problems with. The individual able to exercise ‘choice’ within liberal society is understood to be autonomous, that is, separate from other individuals and self-governing. This ‘self-governing’ extends to the body, which the individual is assumed to have ‘ownership’ of, or property in. That is, the liberal individual has property in their person and in this sense they are, as Cornell describes, “the king who reigns over the body” (1995, p.33). This relationship with the body is one that many feminists (Eisenstein 1998; Church 1997; Petchesky 1995) have pointed out is problematic.

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<sup>24</sup> As many commentators have pointed out, the terminology ‘test-tube’ is more a reflection of scientific symbolism than scientific reality, where a peri dish is the actual device involved in such procedures.

They argue that women's experiences of the body do not fit this somewhat restricted and simplistic definition of 'ownership'. The reproductive and pregnant body, in particular, does not conform well to this concept. Of course, as pointed out earlier, liberal political theorists had never intended for the body of the abstract liberal individual to be a *woman's* body. Yet feminist campaigns, especially for abortion, often invoked this notion of property in the body and argued for pregnancy to be viewed as a part of the body over which the woman exercises her control. Women's experiences of pregnancy, however, often did not fit this notion of pregnancy as being merely an extension of the body. Indeed, pregnancy can be described as both a process and a state of being 'one and yet two' at the same time and, as such, poses significant challenges for this liberal conception of the body. Rather than a passive object over which one rationally exercises her control, the pregnant body brings into sharp focus the difference that *embodiment* makes to our consideration of the self. A diverse range of feminist authors have written about pregnancy and pregnant embodiment in ways that challenge the liberal concept of the self/other dichotomy (Rich 1976; Kristeva 1980; Young 1984).

The 'old' technology, 'abortion', allowed for the liberal conceptualisation of bodily integrity or 'ownership of the body' to be more coherently transposed onto the pregnant body. That is, the right to an abortion is merely the right to have control over the body; to prevent the body from being utilised for purposes for which the individual does not consent, in this case pregnancy and possible subsequent parenthood. In contrast, ART were viewed as blurring bodily boundaries with procedures like In Vitro Fertilisation (IVF), donor sperm and donor egg use, making the claim to a simple 'right to control the body' less meaningful. The body constructed by the individual of liberal discourse did not translate as easily to the 'new' reproductive bodies produced out of the practices of ART.

As highlighted previously, numerous feminist critiques of liberal rights discourse and the theory of individualism on which this is based have been made (Held 1984; Holland 1990; Phillips 1991; Porter 1991). These theorists provide useful insights into understanding the approaches taken by many feminists opposed to ART.

### 2.2.2 Nature versus culture – feminists against reproductive technologies

The idea that ‘choice’ in relation to abortion was a radically different concept from that associated with the use of ART was well articulated by many feminists in the mid-to-late 1980s and early 1990s, some of whom became strongly opposed to the ‘new’ technologies whilst supporting the ‘old’ technology, abortion.<sup>25</sup> These approaches tended to characterise ART as ‘unnatural’ and, as such, working against or in opposition to women’s ‘natural’ biological capacities. Here, abortion was understood as ‘natural’ and even ‘primitive’ as opposed to what was viewed as the highly technological and inherently invasive ART. This position is characteristic of a group of radical feminists associated with the organisation Feminist International Network of Resistance to Reproductive and Genetic Engineering (FINRRAGE). Feminists involved in FINRRAGE published numerous articles and books throughout the late-1980s and 1990s detailing their opposition to ART and what they saw as the erosion of women’s control over their reproductive capacities. Titles such as *The Mother Machine*, *Living Laboratories*, *Test-Tube Women* and *The Baby Machine* revealed an underlying commitment to the belief that ART somehow forced women into an unnatural, artificial relationship with reproduction and their bodies.

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<sup>25</sup> See Raymond, J. (1995). *Women as Wombs: Reproductive Technologies and the Battle over Women's Freedom*. North Melbourne, Spinifex. Corea, G. (1988). "Women, class & genetic engineering - the effect of new reproductive technologies on all women" in *The Baby Machine: Commercialisation of Motherhood*. J. Scutt. Carlton, McCulloch, pp 135-156. Arditti, R., R. Klein, et al., (eds) (1984). *Test-Tube Women: What Future for Motherhood?* London, Pandora Press. Rowland, R. (1984). "Reproductive technologies: the final solution to the woman question?" in Arditti, R and Klein, R et al (eds). *Test-tube women: what future for motherhood?* London, Pandora Press.

A dichotomy between the 'natural' and the 'social or cultural' is a strong and consistent part of the liberal philosophic tradition. This dichotomy is mapped onto the distinction drawn between the public and the private spheres. The public sphere is said to be shaped by social and cultural imperatives and, as such, forms the central focus of democratic, civil society and the universalistic rules and codes which apply. The private sphere, however, is governed by the 'natural' or the 'instinctive' and is characterised by particular relationships, the family being the central structure here. As previously highlighted, women's role within classical liberal theories was primarily via their reproductive capacities within the family. Their reproductive bodies and associated nurturing roles within the family were evidence of their closeness with nature (Pateman 1989; Lloyd 1984). Such practices, it was argued, came naturally to women and functioned to align them more strongly with emotion as opposed to reason and rationality. 'Nature' and all that was associated with it (passions, emotions etc.) were aligned with the feminine. 'Nature' was also constructed as being in direct opposition, and in many ways a threat to, 'culture' and reason. John Rawls' (1971) 'veil of ignorance' is perhaps one of the best known liberal arguments for justice based upon the need to abstract the individual from the influence of attachments and emotions (from 'nature') in preference to rationality and reason ('culture'). Rawls argued that the most ideal version of justice is to be achieved only when we remove ourselves from aspects of our life aligned with nature (and, by implication, with the feminine). For many traditional liberal theorists, the need to contain and control nature was part of their rationale for women being routinely excluded from civil society. As Genevieve Lloyd suggests, "[t]he containment of women in the domestic domain helped control the destructive effects of passion on civil society ..." (1984, p.77). Lloyd (1984) suggests that for liberal theorists the public/private split helped to capture the perceived virtues of women's maternal feelings at the same time as it contained the threat to civil society posed by the 'disorder' of women's bodies, passions and emotions. We see here how the 'woman equals mother' discourse informs the very basis of how women are understood and constructed within the liberal paradigm of the public/private

split. Moreover, this division between nature and culture was based upon a belief that the cultural was inherently more valued, that “nature makes itself while culture is man-made” (Collard and Contrucci 1989, p.5).

This aligning of women with nature has had significant consequences. Firstly, woman’s ‘innate’ connection with nature sets her apart and separates her from the cultural and the political. This also has the effect of establishing women as being poorly suited to activities associated with the cultural life of society, activities requiring the exercising of reason and rationality. As Patemen explains:

[m]en possess the capacities required for citizenship, in particular they are able to use their reason to sublimate their passions, develop a sense of justice and so uphold the universal, civil law. Women, we learn from the classic texts of contract theory, cannot transcend their bodily natures and sexual passions; women cannot develop such a political morality. (1989, p.4)

Indeed, early medical texts even went so far as to suggest that women’s reproductive capacities would be threatened if they were to attempt to participate in activities in the public realm. It could be argued that a similar argument, presented in less biologically determinist language, raises concern over ‘career women’ delaying childbirth (Horin 2000; Hinde 2007; Manne 2002b; Skatsoon 2002).

Following on from this construction of nature and culture as opposites, and true to its construction as a dichotomy, one could not be aligned with both nature and culture. For some liberal theorists, to be associated with ‘nature’ was to be *in opposition* to the cultural.<sup>26</sup> This understanding effectively translated to women themselves as in opposition to reasoned and social engagement in society. Other liberal philosophers, such as Rousseau, envisaged a

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<sup>26</sup> See Lloyd, G. (1984). *The Man of Reason: 'Male' and 'Female' in Western Philosophy*. London, Methuen & Co Ltd.

society where women's role in the private realm enabled nature and culture to co-exist in the public realm through women's role in the home. As Lloyd explains;

Rousseau's private women influence public political life through men. 'Nurtured in childhood' and 'tended in manhood' by virtuous women, men bring to the public domain a Reason governed by Nature. (1984, p.78)

Once again, here the harnessing of women's closeness to nature is via her perceived maternal qualities. Women 'nurture' and 'tend' men. Such qualities have no place in the public sphere except to the extent that they are channelled via men into the public realm.

In addition, aligning women's reproductive capacities and maternal practices with nature and locating this in the private sphere had the effect of rendering all that was associated with women's reproductive capacity including childrearing, caring and emotional labour as innate and natural and therefore of little significance to the cultural and intellectual life of society. Unlike men's labour in the cultural life of the public sphere, women are seen to engage in a labour of the heart and soul emanating from an instinctive knowledge base rather than an intellectual or rational knowledge base.

Despite the majority of those feminists opposed to ART locating themselves within a 'radical feminist' tradition, the legacy of liberal philosophies is evident in many of their contributions to the debate on ART where, often, a clear-cut division between nature and culture is invoked. In many cases, these theorists provide an overt critique of what Janice Raymond (1995) terms 'reproductive liberalism' whilst at the same time perpetuating many of the core aspects of liberal tradition. As Moira Gatens has argued:

[t]he division between the (bodily, natural, feminine) private sphere and the (rational, cultural, masculine) public sphere is a division that has proven particularly resilient to feminist intervention. (1988, p.68).

According to Mary Poovey, another central feature of liberal individualism is its reliance upon “the constitution of maternity as the essence of the female subject” (1992, p.243). Maternity becomes the ‘natural’ basis of female identity. Many of the anti-ART feminist discourses invoke notions of an essential and, importantly, natural relationship between women, pregnancy and maternity.

### 2.2.3 Technology as a resource for feminist goals in reproductive politics

Whilst some feminists remain concerned about the potential for ART to reinforce gendered power relations, especially those connected to reproductive practices, others have drawn attention to the multiple ways that new technologies can be utilised to enhance feminist goals. Shulamith Firestone first championed the potential for women’s liberation via reproductive technologies in 1970. Firestone (1970) proposed technology would ‘free’ women from the reproductive body itself, in an envisaged future world where all reproductive processes would take place outside women’s bodies via technology. More recent feminist analysis has pointed toward the potential for radical reinterpretations of the body via ‘techno-maternity’ (Mahjouri 2004). Donna Haraway (1991), for instance, proposed the figure of the ‘cyborg’ as a means of subverting the traditional boundaries and dualisms structuring the self, rooted in western liberal thought. The cyborg is used by Haraway as both a metaphor for possibilities and a literal rendering of the realities of the multiple and increasingly complex connections and interactions between machines, humans, science and technology. It is for her a powerful tool for feminism to imagine bodies beyond gender. She suggests:

[u]p until now (once upon a time) female embodiment seemed to be given, organic, necessary; and female embodiment seemed to mean skill in mothering and its metaphoric extensions. ... Cyborgs might consider more seriously the partial, fluid, sometimes aspect of sex and sexual embodiment. Gender might not be the global identity after all, even if it has profound historical breadth and depth. (Haraway 1991, p.180)

The desire to move beyond gender through the perceived possibilities of the ‘cyborg’ or ‘techno-maternity’ has been presented as a way of moving beyond feminist constructions of a reproductive body that “ends at the skin” (Goslinga-Roy 2000; Haraway 1991, p.201) toward a dispersed and hybrid version of reproduction. Others (Balsamo 1995; Caddick 1995; Braidotti 1996) caution against the potential disappearance of the body and therefore embodied experience within some of these discourses. Haraway herself acknowledges the social relations of science and technology, pointing out that “we are not dealing with a technological determinism, but with a historical system depending upon structural relations among people” (1991, p.165). The social relations of class, race, gender and sexuality continue to influence both access to technologies and the meanings attached to their use.

Many feminists have argued against the tendency to conceive of technology as either good or bad thereby replicating the dualistic culture versus nature divide of liberal thought (Caddick 1995; Farquhar 1996; Maher 2001; Toffoletti 2007). Feminist debate and discussion regarding the potential for technology to be utilised in the achievement of a wide range of feminist goals is ongoing. Most commentators acknowledge that the figure of the ‘mother’ and ‘the maternal’ remain central to the construction of the dilemmas and controversies that arise in the public domain and in popular culture. Popular film depictions of hybrid or technologically mediated reproduction, for instance, such as those contained within the film *Alien*, resolve the threat of the ‘monstrous’ feminine represented by the creature of the female alien and her offspring via reinscribing essentialised features of



maternity via the feminine heroine.<sup>27</sup> In an era where many feminists observe reproduction to be increasingly dispersed amongst bodies “whereby women (and men) may engage in multiple, diverse and radically transformed activities associated with reproduction” (Gillespie 2001, p.146), the persistence of the ‘woman equals mother’ discourse persists. Even the notion of the ‘techno-maternal’ body invoked by Mahjouri (2004) seems to return the essence of the ‘maternal’ to the terrain of women and reproduction in the technological age.

## 2.3 Abortion and ART

One of the outcomes of the characterisations of abortion and ART as opposites – one the ‘old’ and the other ‘new’ – has been an obscuring of the links between abortion and infertility treatments.<sup>28</sup> Both practices have, for instance, been constructed in a highly medicalised fashion. This is despite the fact that procedures like menstrual extraction, which is an early suction termination of pregnancy, and donor insemination practices are not necessarily medical nor sophisticated or highly technological. Indeed, *Roe v Wade* was based upon a right to privacy between a woman *and her doctor*. Many have argued that *Roe v Wade* reaffirmed the rights of doctors rather than women *per se*, thereby shoring up the central role of medicine in the reproductive lives of women (Petchesky 1984; Albury 1999). Under virtually all laws which allow abortion, the decision to proceed with an abortion is ultimately based on a doctor’s assessment of the best interests of the woman.<sup>29</sup> Likewise, many have pointed to the ever-expanding category of infertility as a medical problem requiring ‘treatment’ even when the ‘infertility’ may have no physiological cause (Franklin 1990; Mamo 2007).

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<sup>27</sup> See Braidotti, R. (1996). "Signs of Wonder and Traces of Doubt: On Teratology and Embodied Differences" in Lykke, N and Braidotti, R (eds) *Between Monsters, Goddesses and Cyborgs: Feminist Confrontations with Science, Medicine and Cyberspace*. London, Zed Books. and Toffoletti, K. (2007). *Cyborgs and barbie dolls: feminism, popular culture and the posthuman body*. London, I.B Tauris.

<sup>28</sup> I recognise that many have argued that infertility has been constructed as a disease in need of ‘treatment’. The idea that any particular intervention is a ‘treatment’ for the condition is, however, the subject of some debate. See, Farquhar, D. (1996). *The Other Machine: Discourse and Reproductive Technologies*. London, Routledge.

<sup>29</sup> This is still very much the case in both the United States and Australia despite differing regulatory regimes in the various states and territories.

The intractability of the perceived conflict between issues surrounding abortion and ART led some commentators to suggest that the only way to resolve conflict and controversy in relation to both was to keep the analysis of each practice separate. For example, in consideration of what she saw as ‘competing’ foetal and maternal rights arising out of the use of new technologies, Lynda Fenwick argues that:

... any strategies for confronting the reproductive dilemmas caused by our growing prenatal access to the fetus for information and treatment prior to birth and our increasing technological intervention in conception and birth can only succeed if we set aside abortion rhetoric. (1998, p.3)

The idea that such dilemmas are *caused* by the technology is not restricted to those, such as Fenwick, who take a non-feminist approach. Indeed many feminists agree that the vast array of new technologies create problems that otherwise would not exist. Certainly the technologies create new dilemmas, particularly ethical ones. Yet many of the new dilemmas centre on the meanings made of the ‘new’ information that technologies provide and the ability for these technologies to re-draw the boundaries of the reproductive body, undermining the liberal conceptualisation of ‘property in the body’. The possibility of attaining fertilisation outside of the female body and with the contribution of genetic material from bodies other than the woman carrying the pregnancy or indeed the intended parents (whether male or female) means that reproduction has become dispersed amongst bodies. The containment of reproduction to the limits of the male-female ‘reproductive couple’ has been increasingly undermined. The resulting conflicts, therefore, could be seen to stem from a reliance on liberal concepts within claims for reproductive rights. Hence the desire for setting aside ‘abortion rhetoric’, which is reliant upon the liberal notions of ‘choice’ and ‘control’, in the face of the new technologies.

Some commentators (both feminist and non-feminist) have suggested that one of the key problems posed by the advent of reproductive technologies lies in their ability to undermine dominant understandings of female identity in ways that abortion does not. Whereas much of the discourse on abortion retains the mother/not mother dichotomy, the use of ART has the ability to disperse these concepts among many bodies in ways that has the potential to destabilise essential meanings attached to these bodies. The possibility, for instance, of a woman carrying a pregnancy that is not genetically related to her, but is the result of a donor egg and sperm, sits less comfortably alongside the individualised rhetoric of ‘my body, my choice’ and the notion of ‘privacy’ between a woman and her doctor. According to Gillespie, reproductive technologies have made possible a ‘cafeteria approach’ toward reproduction:

whereby individuals can choose to have some investment in reproduction, such as egg or sperm donation. ... As a result contemporary meanings and practices associated with human reproduction have come to be disrupted and recast in ways that render them increasingly diverse, fragmented and uncertain. (2001, p.146)

The potential suggested by the above argument is that any essential or taken for granted relationship between women and pregnancy or women and motherhood is therefore undermined in the processes made possible via the use of ART. Rayna Rapp posits this when she suggests:

[r]eproductive medicine and its feminist critique share a central concern with the problem of female identity. In both discourses ... motherhood stands out as a condensed symbol of female identity. Changes in sexual practices, pregnancy, and birth are widely believed to be transforming the meaning of ‘womanhood’ itself. (1990, p.29)

Dion Farquhar (1996) has suggested that at the centre of much of the feminist debate and concern around reproductive technologies is a discomfort with the notion of women's choice to parent. As she points out:

[h]istorically, feminists have vigorously supported women's right not to have children, to remain childfree, although contemporary natalism remains relatively unchallenged by the development of any feminist theorizing about women's options of being childfree. Feminists have been divided and even ambivalent about women's desires to have children. (1996, p.93)

With the advent of ART the desire to parent saw increasing numbers of women undergoing considerably invasive, uncomfortable and, at times, risky medical procedures in order to achieve pregnancies. This sat uncomfortably alongside much of the previous feminist discourse on reproductive freedoms where, as Farquhar points out above, the freedom to avoid unintended pregnancy was the main focus of feminist approaches to reproduction. Feminist discourses on motherhood and mothering, therefore, were placed under considerable tension when it came to examining the 'choice' to utilise infertility treatments like IVF. Within the prevailing social context where motherhood is intimately bound up with authentic female identity, the construction of ART as an example of women's reproductive 'choice' remains problematic. As Albury has observed:

[t]he social meanings of the mother and the non-mother will have to be addressed in more sophisticated ways in order for the interventions to have the impact of a 'woman's right to choose'. (1999, p.251).

As is the case with abortion, exercising 'choice' in the context of political liberalism has the potential to produce contradictory and uneven outcomes for women. Unlike abortion, however, ART has the potential to reinforce the notion of women's bodies being reduced to reproductive bodies. It also has the potential to undermine the coherence of the heterosexual

nuclear family which underpins liberalism. As previously suggested, ‘the family’ within liberal discourse has a number of essential characteristics. That is, it is located within the private sphere and comes about as a result of so-called ‘natural’ differences in the attributes of men and women. ART practices, however, take place very much in the public sphere, and can come about as a result of formal negotiated contracts. These reproductive practices, located most often within the market economy of private medical facilities can involve a range of transactions between individuals beyond the traditional family. It is for this reason that mainstream debates surrounding ART often focus on perceived threats to ‘the family’. Ellen Lewin puts it this way:

... motherhood is not supposed to be embarked upon as the result of individual choice. Motherhood is supposed to happen because women stand in a particular sexual and economic relationship to men, not because a woman determines that being a mother will meet her personal goals. (1995, p.117)

Feminist and non-feminist arguments against reproductive technologies can, in some instances, have the effect of reinforcing assumptions about appropriate motherhood that aligns women with a ‘natural’ relationship with maternity and the heterosexual family. In Chapter Six I explore how this form of explanation operates in debates in Australian newsprint media between 2000 and 2007 concerning single and lesbian women’s access to reproductive technologies.

## **2.4 Concluding remarks**

Feminist thought has had a difficult time moving beyond the liberal framework, as commentators such as Ingrid Makus (1996) have also observed. This is especially the case in the area of reproduction where rights-based arguments have predominated for so long. The impediment seems to be not only the value and meaning of central liberal concepts such as ‘choice’ and ‘control’ but also the extent to which feminism continues to invoke an essence

of 'woman' that assumes 'natural' maternity. The feminist use of 'rights', 'choice' and 'control' is clearly impacted by understandings of women within the liberal tradition. Liberalism's inability to provide an adequate theory of women as rights-bearing individuals in a way that also acknowledges and engages with the reproductive body without reducing this body to an essentialist formulation, has led, in many cases, to a preference for the adoption of a 'gender-neutral' approach. Increasingly, however, this option has proven to be inadequate and feminists have explored the potential for other approaches to reproductive politics. The next two chapters detail two such approaches, the first drawing upon health/medical and bioethics discourse, the second framing reproduction within ethical/moral philosophy.

## Chapter 3     Feminism, health/medical and bioethics discourses

### 3.1 Introduction

This chapter examines the medical/health discourses within which both abortion and ART continue to be located. As I have previously argued, it is apparent that abortion and ART are predominantly located within three broad discourses, which are taken up by both non-feminist and feminist perspectives. I have designated these discourses as the rights/legal, medical/health and moral discourses. I contend that in each of these discourses (which can be, and often are, overlapping), we find women constructed as mothers. The result of this construction is a difficulty in dealing with women in relation to infertility treatments and abortion in ways that do not assume the pregnant body to be the maternal body or reduce women to mothers. My goal here is to chart these constructions of woman, maternity and pregnancy as they flow throughout health/medical discourses and to detail how feminist reproductive discourses on abortion and infertility treatments have a tendency to reproduce these constructions, thereby limiting opportunities to move beyond a reductive ‘women equals mother’ equation.

Feminists do not theorise in isolation, however, nor do their political strategies spring simply from internal debates. Rather, feminist theory and practice<sup>30</sup> is both a response to, and creator of, contestations for meaning and power in relation to social categories (practices) and discourses. It is important to consider what might constitute the ‘conditions of possibility’ for a shift in feminist approaches. Therefore, this chapter aims to examine both feminist and non-feminist medical and health discourses concerning abortion and infertility ‘treatments’, with particular attention to the development of ‘bioethical’ discourses from both perspectives and the interactions between them.

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<sup>30</sup> Whilst I use this distinction here to distinguish between what is sometimes referred to as feminist ‘activism’ as opposed to theory, I do not intend to suggest that theory itself is not a ‘practice’ such that it does not have material effects. Rather, I hope to make interconnection between these two ‘faces’ of feminism.

Two significant, yet divergent, shifts took place in the mid-1970s and early-1980s which impacted upon understandings of ART and abortion. One of these, informed by liberal feminism, represented an attempt to de-politicise questions of reproductive rights by moving toward a gender-neutral health-based approach. The other also advocated a health/medical framework for abortion and ART, yet argued for a gender-specific approach to this, via the lens of ‘women’s health’.

In the first case, feminists were keen to situate the ‘gender-neutral’ individual as central to demands for women’s rights in general. Abortion and reproductive technologies were increasingly situated within discourses advocating equal access to medical and health services more generally. In an attempt to move away from gender-specific arguments based upon women’s rights, this strategy relied upon locating women’s reproductive bodies alongside all other bodies in their need for appropriate medical/health interventions and assistance. Arguments often relied upon positioning the pregnant or potentially pregnant body as ‘like’ some other sort of body, a pregnancy was ‘like’ a temporarily disabled or ill body or a special case of the female body (Eisenstein 1988). Sexual difference, however, is a core concern for feminist theorists and, as previously highlighted, women’s bodies have come to represent this difference throughout the history of dominant liberal political thought. The relationship between women’s identity and sexual difference as reflected in the bodies of women has, therefore, been a hallmark of feminist struggles within traditional arenas of authority such as the law, philosophy and medicine. In relation to the law, Frances Olsen concluded that the impression given is that “... only women have bodies. Or, if men have bodies, women are bodies” (1996, p.212). In this way, feminist theorists have drawn attention to the way that the female body has come to represent ‘difference’, specifically sexual difference. To be a woman meant to *be* a body; a ‘different’ body. Within this logic, men’s bodies become the neutral gender or ‘genderless’, the norm against which all ‘others’



are judged.<sup>31</sup> Indeed, gender only becomes visible within this construction when women's specificities are highlighted. As Eisenstein argues:

[t]he interpretation of pregnancy is what is at issue here. It can be used both to differentiate women from men by institutionalizing the 'difference' of the female body and to assume that men and women are the same if not pregnant... (1988, p.67)

The most common way for this to occur within medical and legal discourses has been via the ostensibly gender-neutral person who forms the basis for our dominant thinking and who only becomes gendered in specific instances, such as pregnancy.

Liberal feminist arguments are based on concerns about inequality and choice. They promote the idea that an abortion, for instance, is essentially a medical procedure and therefore a health issue like any other. Liberal feminists are also concerned to highlight and redress the imbalance in health care for women resulting from years of male dominance within the medical profession. As Elizabeth Fee argues, liberal feminists see the "social subordination of women reflected in the sexual structure of the organization of medicine" (1977, p.280). Medicine was seen to be in need of education and reform concerning the specific health needs of women, including their reproductive needs, encompassing abortion and, to a lesser extent, infertility treatments.

Whilst this focus on the 'health' aspects of abortion in the 1980s was certainly not an entirely new dimension within the history of abortion debates,<sup>32</sup> it did represent a significant change in direction from the campaigns that immediately preceded it, where throughout the 1970s the focus was more on women's rights *per se*. Another influential version of this

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<sup>31</sup> Recently, those researching masculinity also highlight the way that particular versions of the male body are set up as the ideal against which all female bodies and many male bodies are judged. See Connell, R. W. (1995). *Masculinities*. Sydney, Allen & Unwin.

<sup>32</sup> See Petchesky, R. (1984). *Abortion and Woman's Choice*. Great Britain, Verso.

feminist claim developed out of radical feminism which had developed a strong theoretical and activist approach to reproduction and viewed the patriarchal family as a key source of oppression for women. Here, the focus was less on viewing women's health issues as equal to men's (as the liberal feminist arguments had tended to do) but rather as quite different, based upon unique experiences related to women's bodies. Radical feminists also argued that as a result of male-dominance in the medical professions, women's health concerns were inadequately understood and poorly dealt with (The Boston Women's Health Book Collective 2005). Radical feminist strategies for addressing this concern focussed on liberating women from the domain of 'malestream' medicine as much as possible and replacing this with a women-centred approach in the form of separate women's health services and personnel (Dreifus 1977).

The above shifts began in the early 1970s and coincided with legal reforms relating to abortion in countries including Australia, the United States and the United Kingdom, and the subsequent formation of what is often referred to as the 'Women's Health Movement'.<sup>33</sup> As mentioned previously, in all cases where legal reform liberalised abortion access responsibility for abortion was relegated to the medical profession. This intensified a period of overall medicalisation of reproduction which began in the 1960s with the oral contraceptive pill becoming the province of medicine made available by prescription only. Indeed, the wording of the historic *Roe v Wade* liberalisation of abortion in the United States underscored the centrality of medical authority:

[t]he abortion decision in all its aspects is inherently, and primarily, a medical decision, and basic responsibility for it must rest with the physician. (*Roe v Wade*, 410 US 113 (1973) cited in Albury 1999, p.109)

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<sup>33</sup> For an overview of some of the key aspects of the Women's Health Movement internationally see Dreifus, C. (1977). *Seizing our bodies: the politics of women's health*. New York, Vintage Books. For Australia see Broom, D. (1998). *By women, for women: the continuing appeal of women's health centres*. St Leonards, Allen & Unwin.

At the same time, infertility, which was up until then most often viewed as being related to some sort of ‘failure’ located in the individual (usually women), was increasingly constructed as a medical problem, located within the heterosexual couple, for which ‘treatment’ could be directed. Laura Mamo describes this period as characterised by a “revolution in medical interventions that facilitated fertility and treated the myriad problems that appeared under the reconstructed category of infertility” (Mamo 2007, p.31).

Alongside these developments within the feminist movement, a second influential discourse emerged from within the fields of medicine and philosophy; it became known as bioethics. Bioethics developed in the 1960s and 1970s as part of a patient rights movement (Wolf 1999) and reached somewhat of a peak in the mid-1980s around the time when new infertility treatments became available, informing the evolving medico-legal discussions concerning reproduction. Indeed, some have argued that the firm placement of abortion within the medical terrain some years previously with abortion law reform set the groundwork for a medico-legal environment that would spawn ongoing bioethical discussions of reproduction (McLean 1999). It could also be suggested that this was a significant factor in the development of the field of bioethics itself. Whilst bioethics developed alongside and, perhaps in many ways, in response to the women’s movement, it managed to take up reproductive issues without a gender analysis. It also avoided taking up the political and structural analysis of increasingly influential social justice oriented human rights based movements such as the civil rights movement that marked the social context of the 1960s and 1970s. Rather, ethics were seen to apply identically to the ‘human’ subject regardless of gender (or indeed class and race). In this way it mirrored many of the liberal feminist arguments surrounding equality and so-called ‘gender-neutrality’. I will argue that this has particular effects for the operation of bioethics discourse in relation to reproduction.

This chapter considers how abortion and infertility treatments are constructed within the fields of feminist women's health discourses and bioethics. I will argue that opportunities for disrupting dominant understandings of women as mothers and, relatedly, pregnant bodies as maternal bodies are limited within these medical/health discourses. I will then move on to explore the links between feminism and bioethics and their subsequent 'coming together' as 'feminist bioethics'. I suggest that feminist bioethics, has, for the most part, picked up selected aspects of feminist moral thought, those reflecting a liberal philosophical framework.

My purpose here is to introduce the theoretical background which informs the shift toward feminist moral approaches to abortion considered in the next chapter.

### **3.2 Abortion and the Women's Health Movement**

Within Australia there was a distinct 'shift' away from framing abortion as a question of women's rights to one of women's health needs in the late 1970s/early 1980s. The implications of abortion (particularly illegal abortion) for women's health were always part of feminist approaches. However, the shift in focus was more a reflection of the perceived political efficacy of framing abortion as *about* women's health rather than merely rights. More specifically, medical terminology and rhetoric became increasingly dominant within abortion discourse. Whilst it is not my purpose here to provide a detailed explanation for these shifts, the influence of legislative reforms dealing with abortion in the United Kingdom, Australia and the United States in entrenching a medical model of abortion have been noted by many (Kaufmann 1984; Scutt 1988b; McLean 1999). In many ways the resulting medicalisation was a 'cost' of the feminist campaign for legalisation and the (perceived) victory over maternal mortality associated with unregulated 'backyard' abortions.

The primacy of medical discourses and the role of doctors in relation to women's reproductive lives entered a period of intense consolidation during the 1960s and 1970s. Indeed, it could be argued that instead of establishing women at the centre of abortion decisions, as was the desire behind the feminist abortion activists slogan, 'not the church, not the state, women must decide their fate', changes in the law continued to side-line women by situating doctors as the main actors when it came to abortion decisions. As Rebecca Albury confirms, "Roe did not establish women's right to abortion. ... it is the doctor-patient relationship that is protected" (1999, p.109). Similarly, within Australia, despite the variation in law between states in all jurisdictions, there remains a consistent deferral to medical judgment and decision making in relation to abortion. In a recent lecture at the Australian National University, Leslie Cannold described the state of abortion law reform in Australia as 'unfinished business' pointing to a number of recent legal cases that highlight not only the lack of clarity and consistency for Australian women regarding the legality of abortion, but the location of the authority regarding abortion decisions in the hands of doctors rather than women (Cannold 2011b). Each state and territory in Australia has different laws in relation to abortion; a combination of common law rulings and legislative changes detail the circumstances under which abortion is legal. In most cases, abortion remains on the criminal code in all circumstances other than those outlined in legislation (Cannold 2011a).

One of the benefits, however, of locating abortion as a health concern like any other was that previously established norms surrounding the importance of health could be invoked. The authority of health or, more specifically, medical discourses could then transfer into discussions concerning abortion. This enabled discussion of services such as the importance of quality of care, access and equity. Within modern day liberal societies health, like education, is deemed to be a social good and is supported by well-developed structures including health policy, funding, health ministers of government, hospitals, education and

training. The pragmatic reasons for framing abortion as a health issue thereby facilitating the ease of this particular political strategy was but one of the appeals for feminists. Feminist concern with abortion extended well beyond liberal feminist claims for 'equality'. As I have previously highlighted, radical feminists had articulated the need for women-specific health care which was often linked with the notion of 'self-help' or perhaps more precisely, self-empowerment. The women's self-help and health movement emerged in the early 1970s in response to what has been described as "an overwhelming dissatisfaction with the traditional health care system" (The Boston Women's Health Book Collective 2005). This occurred in the wider context of a challenge to medical dominance from those in the consumer health movement.<sup>34</sup> One of the women's health movement's major aims was to reject the 'control' the male dominated medical profession had over women's bodies. Feminists within the women's health movement drew attention to the long history of medicalisation of women's bodies, particularly the pathologisation of women's bodily processes like menstruation, pregnancy, and menopause.<sup>35</sup> They developed a critique of what they described as excessive medical intervention involved in routine health procedures or processes like abortion, childbirth and gynaecological examinations. The impact of this analysis was underscored by increasing numbers of women speaking out about their experiences with the medical profession in ways that were unprecedented. As Kathryn Morgan explains:

One of the earliest forms of political resistance to misogynistic medicalization and to other violence in the lives of girls and women has been the rejection of gender-specific forms of silence. ... Women have spoken out, telling of pain, of medical exploitation and coercion, of fear in the face of powerful medicalizing macro-institutions, and of degradation and violence directed at them by those entrusted with the medical gaze ... (1998, pp.109-110)

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<sup>34</sup> See, for example Illich, I. (1975). *Medical Nemesis*. London, Calder & Boyars.

<sup>35</sup> For an analysis of how medicine constructs women's bodily processes such as menstruation, childbirth and menopause see Martin, E. (1987). *The Woman in the body: a cultural analysis of reproduction*. Boston, Beacon Press.

Women were encouraged to ‘take back control’; the major tool for which would be the dissemination of information to women about their own bodies and an advocacy of women’s self-help through this knowledge. The aim was, as Morgan describes, to “demystify and democratize medical knowledge, thereby challenging the ‘credentialed expert’ monopoly over such knowledge” (1998, p.113). This extended to the practice of teaching women how to perform routine medical procedures and health checks without the assistance of a medical practitioner.<sup>36</sup> Sexual and reproductive health issues were identified as those areas where women were most alienated from doctors and the health system and as such constituted the main focus of early feminist self-help groups (Fee 1977).

At this point it must be noted that two seemingly contradictory or ‘at odds’ approaches had developed from within the women’s health movement. One focused predominantly on a “feminist desire for abortion to be treated like an ordinary medical procedure” (Albury 1999, p.112). Liberal feminists saw the achievement of this goal as possible through measures such as encouraging more women into medical practice, this eliminating male bias and extending medical services to cover women’s needs more comprehensively. The other approach challenged the more general ‘medicalisation of women’s lives’, and questioned the usual medical approach to women overall, the final goal being the removal of a number of women’s health ‘concerns’ from medical purview. This linked in with a growing awareness within the feminist movement of the limitations of previous reproductive rights strategies. In relation to abortion, Albury argues,

[t]he developing feminist analysis of health care meant that the ‘reform’ of the abortion laws as envisioned by the 1960s activists was quickly regarded as insufficient. The reforms left abortion decision making in the hands of doctors ... (1999, p.120-121)

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<sup>36</sup> For accounts of ‘self-help’ projects developed by the Women’s Health Movement see Klein, R (1984) “Doing it Ourselves: Self Insemination” and Downer, C (1984) “Through the Speculum” in Arditti, Klein and Minden (eds) (1984) *Test-Tube Women: What Future For Motherhood?*, Frankfort, E (1977) “Vaginal Politics” in Dreifus, C (eds). *Seizing Our Bodies: The Politics of Women’s Health*

What was subsequently envisioned included a revision of most, if not all, prevailing norms surrounding women and medicine in a way that would radically change women's engagement with health care professionals in an ongoing way. Rather than accept and attempt to utilise the notion of health as a universal and gender-neutral category, these activists preferred instead to expose the falsity of such claims. As Kathryn Morgan explains:

... increasingly, the Women's Health Movement has sought to destroy the pseudo-universality of the biomedical model and biomedical medicalization by redefining the knowledge base for women's health in a way that is woman-centred, culturally and politically contextualized ... .  
(1998, p.114)

Liberal feminist oriented reforms were increasingly viewed as inadequate by many feminists in the women's health movement, especially radical feminists. The liberal feminist approach of increasing the numbers of women within the prevailing health structures and expanding the awareness of 'women's issues' within these has come to be pejoratively referred to as the 'add women and stir' approach of addressing feminist concerns within public institutions. It was quickly exposed for the false equality that it promised. For radical feminists this 'equality' was criticised as being based upon an effacement of difference, particularly bodily difference. They argued that an approach based upon 'gender-neutral' health needs possessed an inherent inability to deal adequately with reproductive issues, like abortion and the development of new reproductive technologies. Radical feminists argued for a gender-specific focus in these areas.



### 3.3 Assisted reproductive technologies (ART)

As I have suggested in Chapter One, the advent of ‘new’ reproductive technologies and the re-interpretation of infertility as essentially a medical problem<sup>37</sup> drew attention to areas of conflict, debate and complexity within feminist discourses on reproductive rights. The application of feminist women’s health agendas relating to abortion such as ‘choice’ and ‘control’ to the new interventions concerning infertility were complicated. The relationship between the ‘choice’ to receive infertility treatment and the place that this choice had amongst medical (and other) discourses reinforcing women’s bodies as essentially reproductive created some ambivalence and divisions amongst feminist responses to ART. Whilst women were widely acknowledged as requiring and being capable of exercising choice in relation to abortion and contraception, some feminists deemed autonomous decision making in relation to infertility treatment to be impossible given the medical control of these treatments. Max Charlesworth has noted the contradiction wherein women were deemed to be:

... capable of autonomous decision making about contraceptive and abortifacient technology in a way in which they were not capable of freely and autonomously choosing for themselves about reproductive technology. (1995, p.129)

Feminists within the women’s health movement identified a number of health issues related to infertility treatments such as In Vitro Fertilisation (IVF). I can by no means do justice to this body of literature, which includes extensive research and critique concerning access issues, ‘success’ rates, women’s experiences of IVF (and related procedures) and the health risks that women utilising infertility treatments are exposed to. Instead, I will focus on two aspects which have been of concern to feminists. Firstly, medical discourse defining

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<sup>37</sup> In referring here to the ‘reinterpretation’ of infertility, I mean to indicate the tendency within the biomedical sciences for a ‘problem’ to be more readily identified if medical science is actively engaged in the treatment of that ‘problem’. Farquhar draws attention to this stating, “In the case of infertility, only when technology advanced enough to be able to intervene in externalizing fertilization in IVF, did involuntary childlessness become medicalized” (1996, p.65).

‘infertility’ and secondly, the feminist critique of medical intervention as a ‘treatment’ for infertility. These two concerns are significant in that they expose the extent to which medical understandings of ‘health’ or ‘health-enhancement’ are tied in with assumptions about women as mothers. In examining these debates within feminist writing I reveal the extent to which feminists themselves sometimes reproduce such understandings while at the same time provide opportunities for moving beyond them.

As the previous section dealing with abortion indicates, feminist approaches vary. In general, liberal feminists came out in support of the availability of ART which they saw as increasing reproductive choice for women. Radical feminists, on the other hand, tended to oppose ART, viewing it as another unnecessary patriarchal intervention to take control over women and their bodies. More recently, there has emerged a group of feminists who are supportive yet cautious and are generally influenced by post-modern or discursive approaches to reproductive technologies. According to Meredith Michaels, for example, ART have the ability to produce a “body whose boundaries are redrawn beyond the naturalized processes of a heterosexist economy” (1996, p.8). In Chapter Six I will go on to explore the extent to which this has become possible in an examination of public discourses contained within the Australian newsprint media.

### 3.3.1 Defining and ‘treating’ infertility: feminist engagement with medical discourses

Early feminist enthusiasm for reproductive technologies as the means for ‘liberating’ women from being tied to their biology,<sup>38</sup> for the most part, preceded the advent of medical procedures enabling conception outside a woman’s body. As highlighted earlier, once ART became a reality with increasing numbers of women utilising them opposition to the technologies was initially widespread amongst feminists. The focus of this opposition

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<sup>38</sup> For example, Firestone, S. (1970). *The dialectic of sex*. London, The Women's Press. Piercy, M. (1979). *Woman on the edge of time*, London, Women's Press Ltd.

centred on the suggestion that the technologies represented another form of medicalisation of women's bodies. Whilst this emphasis within feminist approaches toward infertility treatments is still prevalent, it has been followed more recently by calls to examine more critically the complexity of reproductive technologies and their impact upon women's lives. More specifically, feminists have highlighted the potential for such technologies to encompass a shift in the broader discourses surrounding heterosexuality and the family, something the 'old' reproductive technologies, abortion and contraception, were unable to do as effectively. There remains, however, a consistent feminist critique of reproductive technologies, specifically on the grounds of detrimental impacts upon women's health. It is to this literature which I will now turn my attention in order to explore how feminists articulate the health issues related to infertility.

### 3.3.2 Who are the infertile? Constructing infertility as a health issue

In Dion Farquhar's words, "[c]ontemporary involuntary childlessness has been so successfully normalized as 'infertility' that it requires no explanatory deconstructive schema" (1996, p.41). Infertility is understood by most people today to be a medical condition. The concomitant association between 'medical' and 'scientific', and the attendant connotations of 'fixed' and locatable truths, dominate discourses on infertility. This construction, which locates the 'problems' of infertility within the biology of individual bodies makes it quite difficult to conceive of infertility as anything *other than* a medical condition. Yet, as Farquhar (1996) argues, the infertile body is produced by highly specific historical and social discourses, circumscribed by class, race and gender.

When compared to most other medical conditions or ailments, 'infertility' remains unique in that it has no independent existence. It is defined explicitly by the patient's *desire* for its diagnosis (Farquhar 1996). As Shannon puts it:

[u]nderstood as a medical malfunction, infertility is a disease. Even so, infertility is a strange disease ... Unless one is consciously seeking to have a child, one can essentially remain unaffected by the disease of infertility for all of one's life. (1988, p.156)

This stands in contrast to abortion which has a long history of being viewed as 'outside' the medical mainstream, at least part of the explanation for which was the argument that a woman's desire about a pregnancy does not in any way indicate a *medical* problem requiring treatment. With infertility, however, medical diagnosis relies on precisely the woman's, or more often the couple's, desire to obtain a particular biological state – pregnancy. Infertility, Farquhar argues, "produces bodies that exhibit an absence: the inability to achieve (or maintain) a desired state: pregnancy" (1996, p.83). Yet, the 'disease' of infertility is more than the presence of this *desire* and *absence*. 'Infertility' as a medical problem is class, race and gender specific. Many feminists have noted that 'infertility' is only designated to be a problem within certain social groups in society, usually white, middle-class women (Raymond 1995; Farquhar 1996; Michie and Cahn 1997; Ceballo 1999; Solinger 2001). As a result, we find that those utilising infertility treatments are not necessarily those with the highest incidence of infertility. In fact epidemiological evidence in the United States, for instance, demonstrates that infertility is more likely to affect older, African American women, despite the fact that white women represent the overwhelming majority of recipients of infertility treatment there (Ceballo 1999; Solinger 2001). Likewise, despite an equal number of male-related infertility diagnoses, the public image of the infertile person is overwhelmingly female (Raymond 1995). Alongside this sits an increasingly dominant public perception that infertility is a problem that *arises* out of (middle-class) women's choices to have careers, 'postpone' childbearing, have abortions and use contraception (Farquhar 1996).<sup>39</sup> This has a number of effects. Firstly, such discourses locate the cause and, implicitly, the 'blame' for infertility in women's behaviour. This has taken place within

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<sup>39</sup> I will go into more detail examining media discourses utilising this (and other) constructions of women in Chapter Six where I discuss lesbian and single women's access to ART

the broader context of debates in Australia over the cost of infertility treatments to taxpayers<sup>40</sup> and concern over falling birth rates and ‘older’ mothers. Secondly, blaming individuals obscures environmental factors (like poverty, pollution, medical interventions) and male-related infertility whilst at the same time making visible the infertility of only one ‘kind’ of woman: those for whom motherhood is deemed socially desirable. As Solinger argues:

[h]istorical distinctions between women of color and white women, between poor and middle-class women, have been reproduced and institutionalized in the ‘era of choice’, in part by defining some groups of women as good choice makers, some as bad. During a time when babies – and pregnancy itself – became ever more commodified, some women were defined as having a legitimate relationship to babies and motherhood status, while others were defined as illegitimate consumers. (2001, p.7)

The discursive construction of terms like ‘maternity’ and ‘infertility’ has been examined by authors who suggest that both terms remain reliant on broader discourses for their meaning. As Farquhar suggests, “[l]ike ‘maternity’, infertility is a contingent social relation and itself an ensemble of cultural practices. It has no preexisting universal meaning” (1996, p.64).

Both infertility and abortion discourses contain the over-arching similarity that some women have always been positioned as ‘outside’ the debate both by feminists and non-feminists. In Australia, for instance, second-wave feminist arguments for abortion rights, for instance, were criticised for failing to acknowledge that Indigenous Australians and other women from non-Anglo cultural backgrounds were routinely prevented from reproducing or, if they did, had the threat of having children removed from their care (Moreton-Robinson 2000).

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<sup>40</sup> Whilst most treatments remain very expensive and require a significant financial commitment from the parent or parents to be, there is often a small publicly funded rebate available in Australia which has come under scrutiny in recent times. See, for example, Munro and Browne (2009). "Rush on IVF to beat funding cap" *The Age*, 16 Aug; Jansen, R. and S. Dill (2009). "When and how to welcome government to the bedroom." *Medical Journal of Australia* 190(2), pp.232-233. , Smith, J. (2005). "When morality gets in the way: public policy debates around reproductive technologies." *Just Policy* 38, pp.48-50.

Reproductive freedom, therefore, had very different meaning for these women. This highlighted the white lens through which much of the early feminist reproductive rights campaigns were framed. As feminists focused their attention on the women who needed contraception and abortion, they continued the focus on women whose potential motherhood was always positively valued and reinforced – white, heterosexual women. Women continue to be positioned differently within dominant public discourse according to their relationship to the norms of maternal identity. As Lewin observes:

Women are still mothers (or potential mothers). Nonmothers are still not quite women, although heterosexual nonmothers in their childbearing years are perceived more easily than lesbian nonmothers as on the way to becoming mothers or as having suffered a putative loss by not bearing children as they grow older. (1995, p.115)

When we take into account the skewed utilisation of infertility treatment technologies amongst a narrow section of the population, it is clear the ‘treatment’ of infertility is a medical remedy for a select group of people within western societies (Solinger 2001; Robert 2006). Infertility, the visible and ‘treatable’ kind, is therefore located only within the bodies of those for whom reproduction is deemed desirable.

Janice Raymond suggests that there is no straight-forward definition of fertility and infertility. Rather, both are produced, in Raymond’s figuring, by the scientific needs of medicine in relation to particular societies. She argues:

[t]he production of fertility and infertility, that is, the ways in which both are created and commodified as medical problems, is very much linked with the production of distinctively different technologies developed for use in different parts of the world. (1995, p.2)

Feminists have identified how technologies are utilised to reinforce the idea of the 'reproductive' women in certain populations whilst discouraging this in others<sup>41</sup> (Ginsburg and Rapp 1995; Raymond 1995; Farquhar 1996). They have also suggested that the development of various reproductive technologies has increased medicine's incursion into the control and manipulation of women's bodies and life choices, both producing and reproducing dominant social meanings associated with motherhood and women of a certain class, race, age and sexuality. Here the element of desire in defining infertility becomes crucial. It has been argued that the most powerful evidence of the 'success' of this incursion into women's lives is women's internalisation of these meanings demonstrated by their demand for and participation in ART.

Through its long history of increasingly invasive physical incursions into the female body, medicine has reinforced the belief that biological reproduction is woman's destiny. In turn, the expectation of and desire for motherhood amongst women has been a boon to medicine. (Finkelstein 1988, p.13)

Feminists have therefore been critical of the notion that medicine merely intervenes to 'treat' a pre-existing condition when it comes to infertility, pointing out that this 'treatment' is contingent upon the coherence of a range of social categories, most importantly those related to maternity, motherhood and family.

### 3.3.3 Infertility treatments: producing and reproducing the dominant family

The focus of most reproductive technology has been on interventions targeted toward women's bodies. The preference for a genetic relationship between the parents-to-be

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<sup>35</sup> Ceballo (1999) details how the media in the United States also colludes in reinforcing the desirability of white reproduction via IVF, making multiple births from white couples newsworthy while ignoring the same in black couples. Ceballo, R. (1999). "The Only Black Woman Walking the Face of the Earth Who Cannot Have a Baby" in Romera and Stewart (eds) *Women's Untold Stories: Breaking Silence, Talking Back, Voicing Complexity*. New York and London, Routledge.

(particularly the father) and the potential child often translates to the use of practices that may require more intensive medical intervention, risk and expense (Allahbadia *et al.* 2011; Clark *et al.* 2011). One consequence of this is the exclusion and marginalisation of alternative family arrangements such as adoption, surrogacy, communal or co-parenting and techniques that do not require extensive medical intervention such as donor self-insemination. Indeed, many of the women who undergo IVF do so for male-factor infertility (Raymond 1995; Leveille *et al.* 2004; Australian Reproductive Technologies Review Committee 2006). Feminists have questioned the dominant medical discourse that describes women who undergo IVF treatment in cases of male-factor infertility as receiving ‘treatment’ for a medical condition that ostensibly belongs to another person. Judith Lorber suggests that “rather than making a free choice or a freely given gift, these women undergoing extensive treatment are making a patriarchal bargain” (1992, p.170). In this scenario women ‘trade-off’ the discomfort and significant emotional, physical and mental costs of undergoing IVF (and other procedures) against the disproportionate burden that childlessness or alternative family arrangements have on women in a patriarchal society. Lorber has documented how female ‘altruism’ functions in relation to kidney donations where, she argues, women tend to exhibit a more ‘taken-for-granted’ attitude toward their decision to donate to a loved one whereas men expressed more ambivalence and were more likely to view the decision to donate as a “momentous event” (1992, p.173). She draws parallels between this and the responses of women with infertile partners. This, coupled with the medical preference for treating the infertile ‘couple’ has had the effect, according to Lorber, of subsuming the *social* infertility of the woman with the *physiological* infertility of her partner. As a result, not only are women’s options in relation to alternative means of ‘resolving’ infertility restricted, it also has the effect of hiding the disproportionate amount of medical intervention taking place upon women’s bodies rather than men’s in the average infertility treatment. Alongside this, some feminists have drawn attention to the fact that current or past medical intervention has been, and often is, the cause of the infertility that



medicine now seeks to treat. Gena Corea, a well-known feminist critic of infertility treatments, takes up this argument:

[p]hysicians have caused a great deal of infertility through excessive surgery, and through the insertion, on a massive scale, of IUDs into women, and through experimentation on women with the drug diethylstilbestrol (DES). (1988, p.83)

Rebecca Albury (1984) also highlighted the irony of medicine's rush to treat infertility given its involvement in producing the condition in many circumstances. The treatment of physiologically fertile women with IVF due to male infertility has been related to an increase in the incidence of medically-induced infertility in the women treated (Lorber, 1992). Such observations only underscore the complexity of feminist analysis of the increasing use of ART amongst women who argue they freely and voluntarily choose to utilise such technologies.

Some feminist theorists have linked the location of 'infertility' as a medical rather than a social concern within a broader oppression associated with the medicalising of women's bodies. Parallels have been made with the medicalisation of abortion and contraception and the associated increased control over women. Jocelyne Scutt, discussing the connections between abortion and infertility as medically defined and dominated, states:

[t]he medical profession 'captured' gynaecology and obstetrics, staking out its claims on women's health, women's lives, women's bodies. Similarly the medical profession has 'captured' abortion through the intervention of the legislature or the courts. In requiring IVF operations, however simple, to be carried out in hospitals or clinics and therefore under the control of the profession, new reproductive technologies have been captured. (1988b, pp.177-178)

Indeed many have been critical of the way IVF has become such a routine procedure despite it being neither a treatment for infertility (it *may* resolve childlessness but does not cure infertility) nor possessing a high success rate. ‘Success’<sup>42</sup> rates are low, and many have suggested that there is in general a lack of objective information about infertility treatments. As Fillion suggests:

[f]or those couples who succeed, the upside of infertility treatments is very clear. But even doctors agree that their vocal and enthusiastic defence gives a somewhat skewed impression of the medical efficacy of the NRTs. (1993, p.48)

Defending infertility treatments purely on medical grounds of health enhancement has become increasingly difficult when taking into account low success rates and the long list of sometimes quite significant ‘side effects’ of the treatments which often require the administering of high doses of hormones to women. As a result, a discourse positioning infertility treatments as ‘miracle cures’ and ‘scientific breakthroughs’ has been increasingly relied upon to justify and describe the treatments.<sup>43</sup> Van Dyck describes this as a process of normalising IVF and related technologies:

Gradually, the dominant meaning has evolved that IVF and related technologies are ‘blessed’ instruments to ‘remedy’ the ‘problem’ of infertility, and to which infertile women are ‘entitled’ because everyone has a ‘right’ to a genetically linked child. (1995, p.12)

Here, we can see links with the earlier liberal feminist abortion health rhetoric, locating treatments like IVF as a routine medical procedure, access to which is a woman’s ‘right’.

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<sup>42</sup> Usually measured by the number of live births resulting from a particular treatment ‘cycle’. Accurate statistics on ‘success’ rates in Australia are difficult to come by. As with abortion, there is no nationally consistent regulation nor recording of data. See Australian Reproductive Technologies Review Committee (2006). *Report of the independent review of assisted reproductive technologies*. Canberra, Minister for Health and Aging, Parliament House.

<sup>43</sup> I will examine this discourse in more detail in Chapter Six when I analyse the public discourses contained in media debates concerning lesbian women’s access to infertility treatments in Australia.

Significantly, however, this argument in relation to infertility treatments did not come first from feminists, but from those within the medical profession. Within this context, ideas about scientific ‘progress’ and technical development were much more likely to be picked up than those that focused on women’s health (Spallone 1994).

For radical feminists within the women’s health movement, however, there is no room within the traditional medical arena for meeting women’s needs, particularly in relation to reproduction. Janice Raymond, and her book *Women as Wombs*, is representative of this perspective, claiming that “technological reproduction is first and foremost about the appropriation of the female body” (1995, p.xxxi). Raymond presents an absolute and dichotomised version of ‘women’s health’ on the one hand and ‘medical progress’ on the other, concluding that:

[t]he development of more reproductive drugs and technologies is not in keeping with an ecology of women’s health. The marketing of medical progress through new reproductive technologies assures continued experimentation on women’s bodies and a spiraling of the cycle in which women are encouraged to try every new sickening and debilitating technique or drug, hyped as the next miracle cure, to have a child (1995, p.137)

In contrast to this view of medicine as ‘taking over’ women’s bodies, post-modern feminists have drawn attention to complex ways in which women can engage with the possibilities made available via ART (Mahjouri 2004). Crucial to this is an understanding of women’s ability to create their own meanings out of the use of ART and a rejection of the linear top down approach to ‘power over’ women’s lives expressed by feminists such as Raymond.

### 3.3.4 Desire and agency: constructing women's 'choice' and experience in feminist debates

The question of how to take account of women's own desire to achieve motherhood via infertility treatments remains one of the ongoing difficulties for feminist discourses that emphasise the deleterious effects of such treatments. For many feminists critical of infertility treatments, the argument is not only that they are detrimental to women's health but that, within the patriarchal context, women's ability to make free choices to pursue such treatments are limited. Robyn Rowland has suggested that women were "being used by the medical profession in order to gain funding for research which is not necessarily intended to help the infertile person" (1984, p.360). Like many other anti-ART authors, Rowland includes a critique of women who utilise ART. Part of her critique, however, relies upon invoking images not only of the 'natural' maternal role of women in relation to children (and indeed all future generations) but also the 'natural' reproductive body. She asks:

[a]re we again to collude with patriarchy because our own momentary needs or desires blind us to the social responsibilities we must have to our daughters; to those who come after us and want the experience of natural conception and childbirth? (1984, p.367)

She goes on to argue that "[w]e need to draw the line between helping the infertile and experimenting further with the most basic aspect of human life – its creation" (1984, p.368). Rowland, like Raymond, invokes the image of a 'natural', uncontaminated version of reproduction located exclusively in (and of) women's bodies which she sets against a chaotic future where reproduction is removed from its current location in women's bodies and cast out amongst various 'others'. Implicit within this argument is the underlying concern that eventually IVF and related technologies will 'replace' so-called 'natural' conceptions. Here, women's bodies (and their assumed natural capacities) are constructed as somehow 'outside' the influence of the social/patriarchal imperatives that are said to impact upon women's use

of IVF technologies but not upon our conceptualisation of the ‘natural’ processes of reproduction.

Farquhar (1996) describes what she calls ‘fundamentalist’ discourses on reproductive technologies; these can be secular, religious or feminist. According to Farquhar, they all share a “strategic commitment to foundational tenets cast as specific uncontestable images that function to insure the unassailable ‘truth’ of their moral positions” (1996, p.96). The ‘natural’ body features as one of these images for radical feminist objections to infertility treatments. We can observe parallels here with earlier liberal political discourses that reduced women to their reproductive bodies as a result of their ‘natural’ capacities evidenced in biology. As Farquhar suggests in relation to this kind of argument:

[i]t is not their understanding of the power and authority imbricated in the medicalization of reproduction (pregnancy, childbirth, infertility, etc) that is problematic (they are right about this), but their binary opposition of a ‘natural’ reproductive experience that transcends power that is simplistic. (1996, p.98)

In other words, such arguments rely on access to this so-called ‘natural’ body unmediated by the very discourses that construct women so pervasively as to preclude their ability to act autonomously in the face of medical imperatives.

Many authors contrast ‘real’ or ‘actual’ women’s experiences with the ‘fabricated’ or ‘illusionary’ medical version of infertility treatments. In the 1988 feminist collection, *The Baby Machine*, edited by Jocelyne Scutt, we find the construction of a dichotomised version of the ‘truth’ concerning the impact of infertility treatment on women. The first (illusionary) truth is told within medical and public discourses emphasising the ‘miracle’ of IVF (and other reproductive technologies) and the positive effect on ‘infertile couples’. The

second (authentic) truth is uncovered by feminists who have interviewed women and discovered a hidden truth of pain and suffering.<sup>44</sup> The feminist truth emphasises the need to listen to women's authentic voice while at the same time maintaining a commitment to the power of a socially constructed desire to be a 'mother'. Within this understanding a woman's desire for their own (biological) child has been criticised by some as a form of 'false consciousness'. The argument goes something like this: women are socially constructed to desire motherhood and therefore will undergo invasive and potentially harmful procedures to fulfil this role. Problems with this position include the assumption that so-called 'natural' conception and motherhood is any less 'constructed' than its artificial (ART) alternative. It also assumes that women cannot act autonomously (or, more specifically, possess agency) within a patriarchal society at all. Within this schema women are unable to be active choosers, weighing up pros and cons. Other commentators have highlighted similarities between feminists opposing technologies like IVF and those who have traditionally opposed abortion. As with the recent shift within the anti-abortion movement, which constructs women as 'victims' of the abortion 'industry', some have noted the similarly 'protective' tone taken by anti-ART feminists. On this point Christine Overall has argued:

The demand for an end to all use of IVF is an expression of a kind of feminist maternalism, which seeks to protect the best interests of women affected by IVF. I cannot agree with those who wish to ban IVF to protect women from the dangers of coercive IVF, any more than I can agree with so-called 'pro-life' feminists who wish to ban abortion to protect women from the dangers of coercive abortions (1994, p.369)

Feminist responses to the health concerns of infertility treatments for women have highlighted a number of broader contradictions within the feminist reproductive health

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<sup>44</sup> A similar approach has been utilised recently by anti-abortion campaigners in their quest to uncover the 'hidden grief' of women who have had abortions. See Tankard Reist, M. (2000). *Giving sorrow words: women's stories of grief after abortion*. Potts Point, Pan Macmillan.

agenda. Once again, some have situated much of this in the ambivalence of the feminist movement concerning women's desire for motherhood. Farquhar, for instance, suggests that:

[w]here technologies are contraceptive or aborting rather than conceptive, they were critically embraced by feminists – despite their essential commodification, possible attendant health risks, instrumentalist medical model, and multinational pharmacological and medical profiteering. (1996, p.123)

Farquhar links the above stance with a number of themes within much of the feminist literature on reproduction. She highlights what she sees as the development of notions of 'good' and 'bad' maternity. This delineation, she argues, has developed along the lines of a familiar dichotomy, that between the natural and unnatural. Abortion, within this schema, has become aligned with the 'natural' and pre-technological.

In 1984, in *Test-Tube Women*, Rebecca Albury observed what she saw as the many links between abortion rhetoric and (the then very new) rhetoric related to ART. She pointed out that in the public discussion at least, both failed to seriously question assumptions about the family (and as a result they often reproduced these assumptions). In addition, both abortion and ART had been increasingly positioned as essentially legal and medical processes, opening up the potential to further entrench state intervention over women's reproductive lives. Here feminists have not been alone in their concern for state control or intervention over the lives of 'patients' in the medical arena. The development of the field of bioethics in the late 1960s and subsequently, feminist bioethics, represented responses to the dilemma that those espousing a liberal and civil rights philosophy have had with the increasing power of medicine and the inability for the law alone to ameliorate the problems with this power.

### 3.4 Feminist and health/medical discourses

Feminist engagement with non-feminist medical and health discourses has never been straightforward and continues to prove challenging.<sup>45</sup> The shift of emphasis from legal *rights* to health *choices* served to highlight the inadequacy of dominant models of health care and ‘choice’ for women (Solinger 2001). It also brought into sharper focus the ‘hidden gender’<sup>46</sup> of so-called ‘gender-neutral’ categories like health. Feminists exposed an unacknowledged masculinity underlying the ‘universal’ body upon which medicine acted and from which medical ethics stemmed. As Phillipa Rothfield explains:

[s]cientific and medical knowledge is generally articulated in a fashion that suggests a singular bodily knowledge, one that underlies all human beings ... It represents one (universal) sense of embodiment, albeit one that acknowledges differences between actual (particular) bodies. But it does not acknowledge, recognize as valid, or accept the existence of differences between distinct forms of bodily knowledge. (1995, p.170)

Feminists have argued that in order to provide an adequate understanding of the *specificity* of bodily experience and knowledge we must take into account social, historical and cultural processes which constitute these bodies. On the whole, however, biomedical ethics understands medicine as a “practice of intervention” (Rothfield 1995, p.176). Here, the body is understood as an already formed object upon which medicine both acts and uncovers the ‘truths’ contained within. In this way the body functions as an unexplored territory waiting for medicine to reveal its hidden landscape. This kind of body has clear and definable boundaries against ‘intrusion’ and ‘leakage’. A healthy body is perceived, therefore, as remaining stable and ‘whole’. Understood within this formulation, the female body, characterised by its cyclical, changing hormonal fluctuations, menstruating, pregnant,

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<sup>45</sup> For an article dealing with some of the challenges that remain for feminists in the Australian context in relation to reproductive politics see Ripper, M. and L. Ryan (1998). "The role of the 'withdrawal method' in the control of abortion." *Australian Feminist Studies* 13(28), pp.313-321.

<sup>46</sup> I borrow this term in part from Graycar, R. and J. Morgan (2002). *The hidden gender of the law*, 2nd ed. Annandale, The Federation Press.



lactating or potentially so, becomes unhealthy and problematic. Such a conceptualisation of the body predominates in western science and medicine. As Shildrick explains, “the ideal body of biomedicine is taken to precede the operation of a bioethics” (1997, p.13). Kane Race argues in his examination of bodies and the AIDS epidemic that “the terms ‘health’ and ‘masculinity’ [have] become isomorphic” (1997, p.41). Within this construction women’s bodies therefore approach more ideal states of ‘health’ the closer they approximate the male body. The ‘healthy’ female body demonstrates the least disruption to the boundaries of the embodied self even whilst experiencing menstruation, for instance. The marketing of tampons and other menstrual products reinforce this notion. Similarly, with pregnancy women are increasingly encouraged to exert ‘control’ over their pregnancies via a range of monitoring and self-surveillance techniques. The concern for feminists becomes how to address such an impetus without re-inscribing essentialised notions of the female body including the maternal body.

Feminists have developed a vast body of literature dealing with the way mainstream science and medicine construct female bodies<sup>47</sup>. Kathy Davis, in her summary of feminist accounts of the body and science concludes, ‘the female body represented all that needed to be tamed and controlled by the (dis)embodied, objective, male scientist’ (1997, p.5). In many ways, the move in the 1980s toward a women’s health agenda, particularly in the public policy domain, had the effect of abdicating *authority of meaning* and practice to the medico-scientific framework. Medical arguments, Laura Wolivar points out:

might unnecessarily highlight the science and technology of abortion procedures, with the unintentional result of overshadowing the social context in which women make their abortion decisions, and reifying science as one of the arbitrators of abortion jurisprudence. (1996, p.17)

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<sup>47</sup> See for instance Harding, S. (1991). *Whose science? Whose knowledge? Thinking from women's lives*. New York, Cornell University Press.; and Blier, R. (1984). *Science and gender: A critique of biology and its theories on women*. Oxford, Pergamon Press.

Such a development in relation to abortion has coincided with what might be described as a ‘moralisation of health’ (Lock 1998) and concomitantly, the medicalisation of the ethical domain. Conrad and Schneider define medicalisation as the “unintentional or intentional expansion of the domain of medical jurisdiction” (cited in Morgan 1998, p.85). I intend to deal with this phenomenon shortly, but for now it is useful to highlight the fact that medicine has increasingly extended its academic scope beyond that of ‘science’ to other areas of social authority including ‘the ethical’ and ‘the moral’. The ability for medicine (understood as science) to speak to the ‘truth’ of abortion has the potential to obscure the very real and persistent feminist critique of science itself, as well as having the ability to directly undermine feminist discourses that emphasise its political, and therefore contested, role in society. Donna Haraway (1991), for instance, has described how medico-scientific ways of understanding are often adopted in a variety of discursive settings; this includes but is not limited to, the law, ethics and social policy. We can also see evidence of the political or strategic uses of medicine as ‘truth’ in the way anti-abortion rhetoric shifted from using predominantly religious symbols to those derived from medicine in the 1980s. Medical ‘evidence’ is posited as the unquestionable truth over which moral indictment can be carefully layered. More recent versions of the anti-abortion appropriation of medical discourse have taken the form of arguing not about the harm to foetuses (although this remains a central concern) but, rather, the psychological harm to women.<sup>48</sup> Here, again, medical ‘evidence’, with its associated notions of objectivity and impartiality, is tendered as ‘proof’ that women are harmed by abortions. This approach has been further utilised by the anti-abortion movement in Australia to focus public attention on the abortion provider (rather than the abortion seeker). In this anti-abortion discourse abortion-providing doctors are said to be undermining the very basis of medicine as a healing profession by harming women via the provision of abortions (Ripper 2001).

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<sup>48</sup> For a discussion of this approach see Buttfield, B. and A. Duvnjak (1999). *The psychological sequelae of abortion - a critical perspective*. Abortion in Focus, Coolumb Queensland, Abortion Provider's Federation of Australasia. Cannold, L. (2002). "Understanding and responding to anti-choice women-centred strategies." *Reproductive Health Matters* 10(19), pp.171-179.

Public debate surrounding infertility treatments like IVF have also invoked the authority and power of medicine. Jose Van Dyck observes how the British government report into reproductive technologies, the Warnock Report, defined reproduction as “the proper domain of medicine and evoked medical ‘evidence’ to the exclusion of other materials or evidence in establishing a definition of the new reproductive technologies” (1995, p.32). Liberal feminist calls for ‘choice’ and the radical feminist desire for women’s ‘control’ have become distorted and, at times, lost as medical rhetoric increasingly defines the domain of reproduction. As Sheila McLean asserts:

... it is certain that a free choice will never be possible unless reproductive liberty (including the right to terminate pregnancies) is seen as an issue which transcends clinical ‘facts’ and medical capacities ... (1999, p.83)

‘Control’ as a concept within radical feminist critique also extends to the questioning of social institutions sanctioned as unproblematic (or indeed, promoted) within the medical realm, like heterosexuality and the family. As Rebecca Albury tellingly observes, despite the efforts of the women’s health movement to the contrary, there has been “no popularisation of the feminist critique of the cultural assumptions about heterosexuality” (1999, p.13). Albury suggests that there may be a number of reasons for this but singles out medical dominance of health care to be the key factor. She goes on to argue that “new thinking is constrained by the location of fertility control within contemporary health care systems” (Albury 1999, p.13). The feminist strategy that involved framing forced childbearing as a health care issue, therefore locating the need for adequate contraception and abortion within the health care realm, has made a tangible impact to increase and improve upon service provision. It has had much less impact, however, upon dominant discourses surrounding reproduction and women. As Albury observes, “in the public debate, the call for quality health care for women seems to be a pale opponent to the robust symbolic appeal of motherhood” (1999, p.112).

Feminists have not been alone in their attempts to critically appraise medical/health discourses. The development of bioethics, which has taken reproductive ‘issues’ to be one of its key concerns since its inception, has had a significant influence upon the landscape of reproductive politics. Bioethics has, in many ways, shaped the current health discourses surrounding abortion and infertility whilst informing, and being informed by, more recent feminist moral approaches.

### **3.5 Reproductive ‘dilemmas’ and the development of bioethical inquiry**

Most commentators trace the beginnings of bioethics to the late 1960s and early 1970s (Jonsen 1998; Wolf 1999; Wildes 2000). Having its political origins or motivations in the patient rights movement (Wolf 1999) and its theoretical influences stemming mainly from theology and philosophy, as a field of inquiry it could be characterised as an extension of traditional medical ethics that has a history of some 25 centuries in the West. The key difference, according to Jonathan Moreno, however, is the need for bioethicists to be able to “defend a particular conclusion ... and critically analyse their own position” (1995, pp.149-150) in relation to controversial issues. This, according to theorists of bioethics, is something medical ethics has avoided. Albert Jonsen (1998), in *The Birth of Bioethics*, highlights a number of factors contributing toward the development of bioethics as a distinctly new version of medical ethics. These include the increasingly advanced nature of medical interventions at the time. Also influential were developments in moral philosophy which, according to Warren (1992), created ethical situations with few precedents and therefore initiated new inquiry which saw a shift from meta-ethics to applied ethics and the dominance of political liberalism. As Kevin Wildes suggests, “[s]ocial and technological developments created change in medicine and society and created a field of bioethics which moved beyond the internalism of physician ethics” (2000, p.15).

Bioethics experienced somewhat of a ‘peak’ in the 1980s during which time bioethics committees, boards, reports, legislation and scholarly journals appeared and received widespread recognition and authority. The journal *Bioethics* was established in 1987 and the editors of this new journal, Peter Singer and Helen Kuhse, described the relevance and need for a journal of this type by highlighting the ever-increasing interest in all questions ethical to do with medicine and biology.<sup>49</sup> They observed that:

[t]he ethical aspects of issues raised by medicine and biology are now being discussed far more seriously, and by a far wider group of people, than anyone could have imagined thirty years ago. (Singer and Kuhse 1987, p.iii)

More specifically in relation to reproduction, the need for bioethics was expressed by Singer and Wells in their 1984 book, *The Reproduction Revolution*, as stemming from the fact that “[t]hese issues are too important to be left to the scientists and doctors who are creating the breakthroughs” (1984, p.vi). This perspective represented a marked shift from previous understandings informing discussions surrounding medical ethics, where the authority and knowledge of the medical practitioner and medicine in general, remained unquestioned. Shildrick (1997) draws our attention to the shift away from conceptualising the medical practitioner as the ‘morally active professional’ and the patient as a passive recipient of medical interventions. Ideally, therefore,

the medical encounter would become not simply an intervention on the part of an active participant into the life of a passive one, but a transaction between two self-determining moral agents (Shildrick 1997, p.8)

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<sup>49</sup> Other key texts in the field include Beaucamp and Childress (1994). *The principles of biomedical ethics 4th ed.* Oxford, Oxford University Press; and Englehardt (1996). *The foundations of bioethics 2nd ed.* Oxford, Oxford University Press.

Despite a burgeoning patients' rights movement informed in part by the efforts of feminists within the women's health movement, the desire to empower the patient with increased involvement and expertise within the medical encounter was neither the impetus nor intention of the shift toward bioethics. Instead new 'experts' became involved in the medical setting and the 'bioethicist' became an integral part of the medico-legal decision-making model. The Australian National Bioethics Consultative Committee (NBCC) defines the role of the bioethicist as being able to "reconcile the principle of personal autonomy with those of justice and common good" (cited in Diprose 1995, p.203). The concepts of autonomy, justice and 'the common good' are central to bioethics and are often claimed to be the guiding principles of the field. In the main, however, these principles have been drawn directly from modern philosophical thought in the West, which is characterised by liberalism. Feminists (Boetzkes 1999; Sherwin 1996; Wolf 1996) and others<sup>50</sup> have drawn attention to the limitations that this influence has had upon the field of bioethics, something I will explore in greater detail later in this chapter.

The most common form bioethics takes today is in its focus on what some have termed "procedural morality" (Wildes 2000, p.22). This term refers to the development, often via committees or boards, of policy and processes to deal with specific examples of bioethical dilemmas. The NBCC, for instance, describes its role as:

[a]s requested by the Australian Health Ministers Conference (AHMC), [to] provide advice and undertake studies on ethical, legal and social issues arising from: Reproductive technology including human embryo experimentation and the bearing of children; Biomedical and health related research; The application of scientific and medical technology; and The provision and delivery of health services (The National Bioethics Consultative Committee 1991, p.1)

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<sup>50</sup> Most notably communitarians. See, for instance 'Communitarian Bioethics' in Wildes, K. (2000). *Moral Acquaintances: Methodology in Bioethics*. Indiana, University of Notra Dame Press.

Yet despite the apparent ability for this new discipline to respond to developments within the socio-political landscape and to represent a ‘new’ focus for both the law and medicine, some observers (Dresser 1996; Wolf 1999) have pointed out that bioethics is limited in its ability to do just that. This new discipline has, in the main, avoided any critical analysis of the dilemmas it presides over, presenting instead the impression of a rational and reasoned approach invoking the liberal philosophical preference for objectivity. This is despite developing in many ways alongside the modern feminist and civil rights movements. Indeed, as Rebecca Dresser notes in *Feminism and Bioethics*, “[s]ome of the same social forces triggered the ‘bioethics movement’ and the women’s health movement, primarily a revolt against medical paternalism and its abuses” (1996, p.146). It is perhaps surprising then, that as Susan Wolf (1999) observes, bioethics has tended to avoid any feminist or cultural component for much of its history, picking up abortion and other reproductive issues without a significant gender analysis. This is despite the fact that ‘reproduction’ began and remains one of the central objects of inquiry or involvement for the modern bioethicist. As Colin Honey points out in relation to the NBCC:

[t]he political occasion for the establishment of such a committee was provided by the introduction of a Bill to the Senate of the Australian Parliament seeking to prohibit destructive non-therapeutic experimentation upon human embryos (1990, p.48)

The bill was introduced in 1985 and the committee established in 1988. Feminists have attempted to address this gender ‘neutral’ analysis of bioethics, responding with a critical approach toward bioethics that incorporates a feminist view on reproduction and other issues. A vast body of literature, which focuses particularly on reproductive issues, now exists defining itself as feminist bioethics. I will examine this literature later in this chapter. First, however, I explore bioethical engagement with the ‘dilemmas’ concerning abortion and infertility treatments.

### 3.6 The role of bioethics

“Bioethics has cast itself as a discipline that resolves moral controversies in medical research, experimentation, clinical treatment, and health care policy” (Wildes 2000, p.142). In the main, it has sought to resolve these controversies via forms of consensus or agreement (Moreno 1995; Wildes 2000). This desire for agreement or even ‘solutions’ has been questioned by some in the field. Wildes, for instance, suggests that “[m]uch of the agreement found in bioethics is fragmentary and ambiguous” (2000, p.165).

The approach that bioethics takes to a particular problem or dilemma, including whether something qualifies as a ‘dilemma’ or not, is dependent upon a range of factors including socio-historical understandings of both morality and ethics. Kevin Wildes suggests a distinction between ethics and morality is essential for understanding bioethics. He states:

[t]o understand bioethics and the problems of methodology, it is helpful to make a distinction between morality and ethics. Morality is concerned with practical questions, actions and choices. It is, in the language of methodological analysis, first-order discourse ... That is, the question stems from practical life. Ethics, on the other hand, is usually concerned with second-order discourse. That is, questions in ethical discourse are more often systematic and critical analyses of first-order practices and values. (2000, p.3)

The demise in the influence of the church as a direct provider of moral frameworks for ethical issues in western societies saw many theologians turn their involvement to the foundational inquiries into the field of bioethics.<sup>51</sup> Unlike religious or church-based ethical opinion, however, bioethics has, on the whole, represented its moral framework as an impartial discourse on values, focusing on seemingly agreed principles held within liberal

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<sup>51</sup> See Jonsen, A. (1998). *The Birth of Bioethics*. New York, Oxford University Press.



democratic societies such as autonomy, freedom and justice. Bioethics has, in many cases, been able to situate itself as though it is without a political agenda.

A perception that ethics committees are non-political entities pervades the literature. Singer and Wells have noted how there may be political and strategic benefits to this for governments wanting to maintain an ‘arm’s length’ from controversial topics:

[n]o doubt some governments are also motivated by the thought that they may be able to defuse some of the controversy surrounding the issue by shunning it off to a non-political body, and then accepting the recommendations that body makes. (1984, p.196)

The inherently political nature of the assumptions made by the various ethics committees that rapidly appeared throughout the 1980s was often lost on commentators in the field. A central concern of bioethics was to emphasise the need for abstract moral principles that are able to be applied consistently to all autonomous rights-bearing individuals within the medical setting. Hence, the ‘dilemmas’ or ‘problems’ toward which bioethicists focused their attention usually centred upon issues which are seen to compromise moral principles. Consent, privacy, disclosure and confidentiality are core amongst these as are issues where a ‘conflict of rights’ can be established. It is within these categories that most of the bioethical dealings with abortion or infertility treatments can be found.

### 3.6.1 Abortion, infertility treatments and bioethics

Abortion has been described as one of the most “controversial issues in bioethics” (Wildes 2000, p.19). Increasingly bioethical discourse has formed a more significant part of the broader debates surrounding abortion. In his book, *Moral Acquaintances: Methodology in Bioethics*, however, Kevin Wildes makes the claim that “[b]ioethics as a field has not contributed greatly to the abortion issue” (2000, p.1). Rather than facilitating resolution of some of the more contentious issues, he describes the abortion debate in the United States as

a ‘complete failure’, arguing: “no common ground has been achieved. The basic issues that were divisive in *Roe v. Wade* are still divisive, and the rancor of the controversy affects other questions in bioethics” (Wildes 2000, p.1).

Wildes (2000) makes an argument for the “middle ground” (p.6) or a “common morality”(p.11) in relation to abortion, something that feminists writing in the area of abortion and moral philosophy or ethics have increasingly expressed a desire to achieve. I will return to this approach later when I explore moral discourses more closely in the following chapter. Many feminists, however, would agree with the above assessment of the abortion ‘debate’, particularly in the United States (Woliver 1996; Solinger 2005; Joffe 2009). Whilst some may argue that bioethics has contributed little to ‘solving’ the so-called abortion debate, it has most certainly had a significant influence on how it and debates surrounding infertility treatments are understood in both the public arena and within feminist theory. Most notably perhaps is the explicit focus that bioethics has had on the status of the foetus or embryo within discussions concerning abortion or IVF and related practices. The ‘dilemmas’ of abortion and infertility treatments within bioethics are predominantly categorised as falling under the rubric of either ‘death and dying’ issues or simply ‘reproduction’ concerns. In *Moral Problems in Medicine* (Gorovitz *et al.*. 1983), an early edited collection of articles dealing with ethical dilemmas in medicine, we find a comprehensive overview of the concerns of medical ethics at the time. These are grouped under the following headings:

- Autonomy and paternalism
- Consent
- Privacy and confidentiality
- Doctor/nurse-patient relationship
- Disclosure
- Killing and letting Die
- Reproduction
- Birth Defects
- Death
- Social justice

Of the six articles dealing with abortion in this collection, one is located in the section on 'killing and letting die', the other five under 'reproduction'. Only one explicitly includes women's experience, needs or concerns as part of the moral issue at hand. The other articles focus mainly on the question of the value of embryonic or foetal life and the morality of 'killing' this life. The two articles dealing with IVF focus on the status of the embryo. As one author notes, "[t]he most central issue in the debate about IVF, as in the debate about abortion, is the question of the status of the embryo" (Gorovitz *et al.* 1983 , p.359). Others in the field agree, pointing out that the moral status of the embryo is *the* fundamental moral issue when it comes to reproductive technologies (Singer and Wells 1984, p.197).

When the *nature* of the ethical 'dilemma' of abortion or IVF is framed in such a way we find no room for alternative readings of what is at stake in these discussions. The taken for granted status of the embryo to the almost complete exclusion of women is, of course, noteworthy from a feminist perspective. For a woman who has an abortion, concerns relating to 'death' or 'reproduction' may be less pressing or urgent than those of consent, privacy, quality health care or social justice and equality. Similarly, many of the medical/health concerns that feminists had identified in relation to infertility treatments cannot be included or even discussed within a discourse focused on death and reproduction. The result has been the erasure of women and women's bodies from the 'scene' of bioethics. Women become mere spectators, passive bodies upon which the gaze of bioethical enquiry is of necessity focused, yet only so far as this relates to them as the biological 'source' or 'guardians' of embryos or fetuses. Within this scenario, women as such are not the legitimate bearers of moral or ethical imperatives; rather, the embryo or foetus stands as the figure upon which moral concern is legitimated. As a consequence the 'problems' arising from abortion and

infertility treatments are often represented as an inevitable ‘battle’ between women and embryos where a conflict model of the bioethical dilemma frames the understanding.

Fenwick, for example, reflects this common, taken for granted position in the following discussion of the ethical dilemmas arising from new reproductive technologies:

[w]e must address the *maternal-fetal conflict* with which technology presents us and decide whether the mother and her doctor should resolve the dilemma, or whether the courts or some new ethical advisory institution should intervene (1998, p.59, emphasis added)

It is clear from the above example, that the woman is completely absent from consideration. If she is said to appear at all it is in the already constituted form of the ‘mother’ who the author invokes here within what is asserted to be the inevitable ‘maternal-fetal conflict’. What is also striking is the extent to which the author offers only options to ‘resolve the dilemma’ that invoke the participation of an authority other than the woman herself; the doctor, the court or some ‘new ethical advisory institution’. The woman is not positioned as an active participant, let alone an ‘expert’ and therefore cannot be trusted to make a decision in relation to a scenario from which she is so effectively excluded.

Ethics committees or ‘bioethicists’ figure within bioethics discourse in ways that circumvent both the possibility of and women’s ability to make authoritative decisions about their own lives. Some feminists had been hopeful that the advent of ethics committees would address some of the concerns that they had with ART. Jocelyne Scutt (1988a), in the epilogue of *The Baby Machine*, for instance, contrasts the ‘muted’ voices of those calling for ethics committees in the late 1970s with those in support of the ‘progress’ seen to be inherent within the new reproductive technologies. Indeed, feminist voices have increasingly been widely included in many ethics committees and reports both in Australia and overseas. In Canada, the Royal Commission on New Reproductive Technologies and the resulting report,

*Proceed with care: The final report of the Royal Commission on New Reproductive Technologies* (1993), was hailed as a feminist victory for its inclusion of feminist moral approaches, specifically, 'ethic of care' theory. Yet, as Alison Caddick (1995) observes, the inclusion of feminist voices has been selective. She highlights in particular how the perspectives of radical feminists critical of the technologies and treatments have been left out of mainstream bioethics debates. She relates this to the liberal legacy of bioethics and its reliance upon liberal approaches to the individual, arguing that the approach taken by these (radical) feminists

... stands outside the official structures of the public debate over the new reproductive technologies (which in Australia has been dubbed the 'ethics debate'), in contrast to the pro-technology positions of liberal feminists which are prominent in the reports of ethics committees and bodies of review. (Caddick 1995, p.145)

The authority and influence of bioethics committees and the input of the bioethics 'expert' has become more important and has coincided with a shift away from a purely legal discourse in the public domain on abortion and infertility treatment. At the same time, however, feminists have become increasingly aware of the limitations of mainstream bioethical approaches to women and reproduction. As a result, a large body of work has developed in the area of feminist bioethics.

### **3.7 Developing feminist bioethics**

Feminist bioethics is informed by feminist ethics, medical ethics and bioethics. I will consider the specific influence of feminist ethics to questions of moral discourse relating to abortion and infertility treatments in the next chapter. Here I want to explore the similarities and points of disagreement between feminist bioethics and mainstream bioethics concluding

with a discussion of the limitations of both for shifting the medical/health discourses surrounding abortion and infertility.

Feminist ethicist Susan Sherwin (1992) points out that medical ethics and feminist ethics contain many shared values between them; amongst these, a preference for looking at content or context based problems or cases, prioritising self-determination, and the importance of issues like consent and privacy. What distinguishes the two is the political dimension of feminist ethics (Sherwin 1992). Bioethics, as I have argued, whilst often perceived and presented as being apolitical, is nevertheless understood by most to be more political than medical ethics as a function of its role in ‘taking a position’ in relation to controversial issues. Bioethics shares some core values with feminist, particularly liberal feminist, approaches to health discourse. Despite this, we find within bioethics a distinct inability to accommodate women within its analysis of abortion or ART. Why is this so? Part of the problem is the extent to which bioethics has been informed by, and continues to reproduce, the liberal philosophical account of the self and of bodies. This account, as detailed earlier, has particular implications for the consideration of women’s bodies and this is brought into sharp relief when applied to ethical dilemmas focused on reproduction. This has been a problem also for feminist bioethics, something I will return to in more detail later. Whilst liberal feminist discourses on women’s health reproduce this, they also question structural issues within medical and health institutions, focusing specifically on gender inequality, something that bioethics has failed to acknowledge in any significant way as a barrier to patient rights. “Bioethics has held fast to its liberal roots, condemning discrimination and calling for equal treatment but failing to dig deeper into the literature and debates about difference” (Wolf 1999, p.66).

This inability to ‘dig deeper’ can be directly linked to the liberal notion of universal and generalisable rights or goods that are presented as applicable to all regardless of gender, race or ethnicity (Wolf 1999).

### 3.7.1 The pregnant body

Feminists have articulated how the focus on a ‘universal gender-neutral individual’ has created a ‘blind spot’ within bioethics, allowing for the erasure of women’s bodies from the discussion of reproductive technologies. As Pat Spallone argues:

from the beginning of the ethics debate on NRTs, women were marginalised as the primary human subjects of NRTS, and as the human being whose physical presence is the prerequisite of IVF ... (1994, p.53)

To bring women and women’s bodies into such discussions in ways other than the ‘mother’ or the ‘maternal’ is potentially disruptive to the coherence of the underlying liberal notions of the female or feminine in the public sphere. Once again, the adherence to an underlying discourse that constructs woman as mothers places limitations upon how women feature in such debates. Bioethics is a discourse that takes place within the public realm yet routinely focuses its attention on matters called ‘private’, such as reproduction. As such it is particularly fraught when it comes to maintaining the borders of the liberal subject. As Ros Diprose asserts, “[w]hat biomedical ethics seeks to preserve is the integrity of the body such that it remains compatible with the social body” (1995, p.207). The pregnant body finds meaning in the public realm as the social body of the ‘mother’. A pregnant body understood as separate from, or in opposition to, motherhood (as it is often portrayed in relation to abortion) is difficult to accommodate within discourses reliant upon liberal understandings of the body. As I have noted earlier, the ‘healthy’ body within bioethics, based upon liberal understandings, is of necessity a bounded and singular body, one with clear borders that

maintains its autonomy and individuality. Although ostensibly ‘gender-neutral’, it is clear that this body cannot sustain the possibility of the transformations that pregnancy necessarily involves without coding that body as a specific, ‘exceptional’ kind of body: the mother’s body. In this way, the pregnant body itself becomes an ethical issue. As Diprose explains:

[p]regnancy also involves a change in the integrity of the body. And perhaps it is because the pregnant body is considered a deviation from the norm, as well as the site of reproduction of the ‘normal’ body, that pregnancy becomes an ethical issue whether or not the body in question is caught up in explicitly controversial practices (such as surrogacy, abortion, IVF) (1995, p.207).

### 3.7.2 Crisis and context: feminist incursions into bioethics

Feminists have also pointed to the ‘crisis’ model underlying mainstream bioethics. Here, the tendency to approach issues as crises leads to a subsequent preference for conflict discourses and, often, a dichotomised version of the available alternatives. Virginia Warren (1992) details how this ‘crisis’ model operates at the expense of consideration of what she calls the ‘housekeeping’ issues. Instead of asking, for instance, how will this new practice contribute to oppression or enhance women’s reproductive control and freedom, the question usually focuses on individual cases that are constructed as being in urgent need of resolution due to some form of crisis represented by the particular case under examination. What results is often a dichotomous view of the issue, leaving few opportunities for exploring ambiguities and contradictions. As a result, the ‘dilemma’ is therefore reduced to something like ‘should lesbian women have access to IVF?’. Feminist bioethics, in general, advocates attention to the broader political nature of bioethical concerns. In other words, it includes an attempt to situate the ‘dilemma’ within the political context, part of which is the gendered power relations informing reproduction. Some in the field of bioethics have welcomed such a shift and suggest that it has more productive potential, designating a move away from moral



controversies and toward methodology, and providing an insight into “the persistence of the controversy and suggesting ways to reduce it” (Wildes 2000, p.2).

### 3.8 Summary

We have seen in this chapter how both the ‘choice’ and ‘control’ aspects of feminist women’s health agendas rely either explicitly or implicitly upon constructions of the individual derived from liberal philosophy. This is problematic for the reasons I have covered in the previous chapter relating to the ‘rights’ campaigns of feminists. Here again, the concept of autonomy and the construction of the body contained within liberal theory restrict the ability for feminists to utilise these ideas without reproducing assumptions about women’s bodies and reproduction. We can observe this in a number of ways in women’s health campaigns. Women can be either ‘like men’, having access to healthcare on a similar and comparable basis, or they can be like men *unless* they are pregnant, or finally, they can be always essentially different by virtue of their sexual difference, which is again indicated via their reproductive capacities (real or imputed). This can also be evidenced in how feminists have understood what the problem is about; hence the desire to control one’s body comes about via information and knowledge, whereby the separate and knowable ‘self’ or the ‘mind’ is understood as unembedded within broader discourses concerning women’s bodies. This is an image of a women’s choice that is “uncontaminated by patriarchal medical discourse [and] ... assumes atomised individualism” (Diprose 1994, p.16). We have also seen how some feminist arguments against infertility treatments invoke an image of women’s connection with nature (via reproduction) that once again rely upon dualisms inherent within liberal philosophical discourse. Often ‘the body’ is taken for granted within these arguments. As Caddick (1995) points out:

One the one hand women are told that they are dupes of patriarchal ideology; on the other we find that bodies, with their needs established in secondary relationship to their contexts, remain distinctly separated from the technologies (1995, p.150)

Bioethics as a discourse not only has the ability to impact on bodies in the medical arena but also has the power more generally to constitute bodies before the medical encounter. As a discourse situated in the overlapping realms of medico-legal and social spheres, bioethics is uniquely placed in its power to define and constitute bodies prior to the medical encounter in ways that are taken up in multiple sites within public discourse. The desire of bioethics to maintain an 'objective' ethical lens that would enable insights to be universal in their application means that women's reproductive bodies are, yet again, either absent from the bioethical encounter altogether or reduced to a limited and naturalised role of the mother/maternal subject.

Finally, I have examined the feminist attempts to bring gender into the realm of bioethics via the development of feminist bioethics. Feminist bioethics attempts to locate the 'dilemmas' that are the focus of bioethics within the broader political context of gendered power relations. In doing so, it also draws attention to the inherently political nature of notions of the 'ethical' or 'moral'. More recently we have witnessed a feminist desire to engage directly with the moral discourses surrounding reproduction, in particular, abortion, the focus of the next chapter.

# Chapter 4 Feminist moral discourses on abortion

## 4.1 Introduction

The 'pro-choice' movement has been forced to recognise that its rhetoric has become stale and isolationist. Where before it avoided any talk of morality and ethics and refused to entertain any thought that the foetus might be significant, some within its ranks are proposing a paradigm shift. Suddenly, pro-choicers are being urged to reclaim the moral ground.

Melinda Tankard Reist in her review of Leslie Cannold's, *The Abortion Myth*, (1998, p.31)

... the job of the pro-choice movement is to provide a moral defence of a woman's freedom to choose abortion. (Cannold 1998, p.119)

The above comments come from two well-known abortion activists based in Australia – the first, by 'pro-life feminist',<sup>52</sup> Melinda Tankard Reist, the second, by pro-choice feminist ethicist, Leslie Cannold.<sup>53</sup> Both women invoke the concept of 'morality' as a key concern of the feminist movement in relation to abortion. It is clear from the first quote that Tankard Reist views the 'pro-choice' focus on morality as merely strategic in nature, brought about by political necessity. Cannold, on the other hand, makes the claim that morality is the essence of the pro-choice cause.

A number of feminists, in a distinct move away from the rights-based arguments of the past, have begun emphasising the moral dimensions of reproductive decisions, including abortion and infertility treatments. Others have developed feminist philosophical approaches toward

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<sup>52</sup> Tankard Reist is known in Australia for speaking out in relation to a range of topics including abortion, euthanasia, stem cell research and more recently, the 'over-sexualisation' of young girls. She describes herself as a 'pro-life feminist'. There is considerable debate within feminist circles in relation to her 'pro-life' feminist stance which many have argued is informed by a conservative, Christian ethos. See, for example, Hills, R. (2012) "Who's afraid of Melinda Tankard Reist?" *The Sydney Morning Herald*, Klein, R. and S. Hawthorne (2012) "The authentic feminism of Melinda Tankard Reist." *ABC online: Religion & Ethics*. Wilson, J. (2012) "A woman's response to authentic feminism." *ABC online: Religion & Ethics*.

<sup>53</sup> Dr Leslie Cannold is a bio-ethicist and frequent commentator on issues relating to abortion, ethics and gender in the media. She has published widely in the area and is perhaps best known for her book *The Abortion Myth*.

mothering and care that have had a distinct impact upon the field of reproductive politics. In an oft-cited article in 1995, the United States-based popular feminist Naomi Wolf lamented the fact that “... the pro-choice movement [had] relinquished the moral frame around the issue of abortion” (1995, p.26). In part, what Wolf expressed was the familiar feminist frustration that the terms of the so-called abortion debate were being set by those who would see the end of its provision – self-proclaimed ‘pro-life’ activists. This is most certainly the case in the United States and is also true, albeit to a lesser extent, in Australia. Key moral terms surrounding ‘right’ and ‘wrong’ or ‘good’ and ‘evil’ had been successfully monopolised by anti-abortion proponents. Wolf’s ‘reclamation’ of this ground for feminism, however, took the form of arguing for an “abortion-rights movement willing publicly to mourn the evil – necessary evil though it may be – that is abortion” (1995, p.27). This, according to Wolf, would be the logical conclusion if we “uphold abortion rights within the matrix of individual conscience, atonement and responsibility” (1995, p.33). Wolf’s use of language, such as ‘evil’ and ‘atonement’, traditionally associated with religious constructions of morality were a significant focus of her argument and draw significant criticism for its tendency to reinforce a narrow and traditional, spiritual notion of morality (Porter, 1999; Morgan and Michaels 1999).

Several years later in her book *The Abortion Myth*, Leslie Cannold has argued that women view abortion as essentially a moral decision where “the central value in the moral matrix is motherhood” (1998, p.124). In Cannold’s words, the key aim of her writing was to provide an argument for “returning abortion – as a moral issue – to women” (1998, p.118). Despite claims to the contrary, the feminist focus on moral dimensions to abortion is not new, nor is the linking of this morality with motherhood or the maternal nature of women. Indeed, as Samantha Brennan points out “... feminist thinking about women’s experiences of abortion have shaped feminist moral theory” (1999, p.879). This raises the question as to what is new in the recent version of feminist articulation of the morality of abortion and, in particular, do

these perspectives entail the ‘paradigm shift’ that Tankard Reist alerts us to in the opening quote?

In this chapter I will examine the turn toward a moral framework in feminist abortion politics. I trace the background and influences upon this framework focusing on feminist moral philosophy and, in particular, the work of ‘ethic of care’ theorists. I have chosen to focus on selected writings by two well-known popular feminists; Naomi Wolf, based in the United States, and Leslie Cannold in Australia. There are a number of reasons for this. The work of each of these writers on abortion received considerable attention both within the academic feminist community and broader public discourse via the media and a range of feminist and non-feminist community and other organisations. Their work has been taken up by pro-choice feminists and anti-abortion activists alike and can be seen to represent a ‘reigniting’ of reproductive politics as a topic for debate and discussion within public discourse. Using the work of these two authors, I will critically analyse the contribution that an approach informed by feminist moral discourses based upon mothering and care might have for contemporary debates surrounding abortion and infertility treatments. I explore the extent to which this approach has the potential to confront and challenge previously resistant aspects of the debates surrounding abortion and reproductive technologies. Most importantly, I consider whether it has the potential to move beyond reducing women to mothers or the maternal subject.

#### **4.2 Leslie Cannold and Naomi Wolf on abortion: the new politics of morality in the pro-choice movement?**

In 1995 Naomi Wolf, an American feminist perhaps best well known for her 1991 book, *The Beauty Myth*, wrote that abortion is a ‘necessary evil’. She accompanied this with a plea for feminists to use a “darker and sterner and more honest moral rhetoric” (Wolf 1995, p.27). Her comments stood in contrast with what most feminists who argued for abortion based on

values of bodily autonomy were saying at the time. Wolf had indicated the ambivalence with which she viewed her ‘pro-choice’ leanings some years earlier. In *Fire with Fire* (first released in 1993), Wolf claimed “[m]y real feelings about contraception are at odds with what I am supposed to say in public as a pro-choice woman” (1993, p.139). She went on to provide readers with a circumscribed, personal reflection on abortion, contraception and feminism, claiming *her* own contraceptive practices had always been approached with a level of responsibility she felt was unparalleled in any other aspect of her life. She made note of the fact she had “never neglected contraception” (Wolf 1993, p.140). Her conclusion was that on some level she was always aware that “[t]his is a matter of life and death” (Wolf 1993, p.140, emphasis in original). In the end, Wolf would only go so far as to claim that *for her* it would be necessary to cast “abortion as a necessary evil” (1993, p.141). Subsequent to this, her pronouncements became far more wide-ranging. She went on to claim that, in her estimation, the future of ‘pro-choice feminism’ hinges upon the kinds of moral re-evaluations that she began to detail at a personal level in *Fire with Fire*. In her 1995 article on abortion titled ‘*Our Bodies, Our Souls, Rethinking Pro-Choice Rhetoric*’, three themes common to the abortion debate are rehearsed. These are: (1) the centrality of the foetus; (2) the importance of moral accountability or ‘justifying abortion’; and (3) the construction of women as mothers or at the mercy of their biology (variously described as destiny or ‘fate’ throughout Wolf’s article). Whilst the first theme has dominated public discourse in the United States and, to a lesser extent, Australia, it is my suggestion that although Wolf uses the centrality of the foetus to lead her to her conclusions about moral accountability and women as mothers, it is the discourse surrounding these second two themes that allows for the *possibility* of the centrality of the foetus.

Before going into more detail on the above point, I will move on to discuss Leslie Cannold’s *The Abortion Myth*, a book published in 1998 that, in Australia, was widely promoted as taking feminist analyses of abortion into new territory. Like Wolf, it favoured a

‘responsibility rather than rights’ focus for the pro-choice movement. It reiterated Wolf’s claim that the ‘pro-choice’ movement urgently needed to gain more support from those occupying the so-called ‘middle ground’ who were presented as being constantly at risk of supporting further restrictions upon abortion provision. Similar to Wolf, Cannold articulates the need for a new ‘abortion ethic’ to secure this ‘middle ground’, one that emphasises moral responsibility and the centrality of motherhood to women. She sets out to challenge both what she sees as the ‘amoral’ rights discourse favoured by the pro-choice movement and what she suggested was the distrust of women’s moral decision-making evident within anti-choice discourse. Cannold’s case for “returning abortion – as a moral issue – to women” (1998, p.118) leads her to argue that “[t]he job of the pro-choice movement is to provide a moral defence of a woman’s freedom to choose abortion” (1998, p.119). Whilst the liberal themes of ‘choice’ and ‘freedom’ are evoked here, the argument becomes framed as one concerning ‘morality’ rather than ‘rights’ – or more specifically, the morality of motherhood. Cannold’s approach employs an implicit separation of the notion of ‘rights’ from ‘morality’ in a way that disconnects feminist political goals from feminist ethics. She concludes from her interviews with women who both support and oppose abortion that ‘women agree that abortion is a moral issue, and that the central value in the moral matrix is motherhood’ (Cannold 1998, p.124). Perhaps, suggests Cannold, the abortion debate “should be renamed the ‘motherhood debate’” (1998, p.110). Cannold sees many benefits to reframing the abortion issue as the ‘motherhood debate’. She argues, “sharing the language of motherhood means that at least pro and anti-choicers are no longer talking apples (the right to control their bodies) and oranges (the right to life of fetuses)” (Cannold 1998, p.123)

Yet the ‘apples’ and ‘oranges’ way of understanding the pro and anti-choice perspectives, just like the view that reproductive dilemmas are ‘caused’ by new technology, is the logical outcome of the pre-existing value placed upon the bodies of women. Within a ‘woman equals mother’ discourse this value situates the female body as a reproductive body, the

maternal subject. Women's bodies make *sense* as maternal bodies within liberal rights discourse. This conflict model of understanding the abortion debate relies upon two underlying propositions: firstly, the genderless universal body of liberalism; and secondly, the foetus as a separate entity. With these propositions pregnant bodies cannot be comprehended within liberal thought. If the foetus is not *of* the woman's bodies then it is separate. As a result, the aborting woman is seen to *produce* the conflict between a woman and the foetus.

### **4.3 Feminist moral thought: mothering, responsibility and care**

Cannold contrasts her approach with what she describes as the 'amoral' rights discourse that she argued feminists traditionally rely upon to support abortion and other reproductive rights. She asks feminism to consider seriously the "flipside of rights: responsibilities" (Cannold 1998, p.xiii). Her view that rights discourse is value-free or 'amoral' avoids the fact that 'rights' within a liberal context are based upon moral imperatives such as the value placed upon individuality and autonomy. Cannold's argument also invokes a dichotomy between the notion of 'rights' and 'responsibilities'.

Despite many in the feminist movement disagreeing with the claims made by Wolf and Cannold, there were some who viewed the move toward a moral discourse in a more positive light. Elizabeth Porter, while expressing considerable difficulties with Wolf's position, went on to concur with Wolf that "a moral frame is crucial to all abortion debates, and that there may be a paucity of moral discourse in popularised feminism and abortion politics" (1999, p.91). Such a moral framework, whilst not visible within 'popularised feminism' did, however, have a growing following within feminist philosophical circles in academia, particularly in the United States where feminist philosophical approaches toward 'mothering' and 'care' were increasingly informing reproductive politics.



Having its origins in the ground-breaking work of psychologist and ethicist Carol Gilligan and her 1982 publication, *In a Different Voice*, feminist theorists began to examine ethics from the perspective of women's lived experiences, especially those connected with relationships of care and dependence. The impetus for this was, in part, a reaction to the hidden gender of the abstract rights-bearing individual. In her research with women who were considering abortion, Gilligan (1982) claimed to hear a 'different' moral voice, a moral voice that reflected concerns of 'care' and 'connection' arising out of relationships. Gilligan sought to challenge the prevailing view of moral development (made popular by psychologist Lawrence Kohlberg), which found women and girls to be less morally developed. Kohlberg's theory on moral reasoning measures moral development by the level of adherence to rules, duties and rights (Kohlberg 1981). In short, Gilligan's research showed that women were indeed just as 'moral' as the male subjects that Kohlberg had privileged in his accounts, but that their route to solving moral problems tended to take a different path. She found that women tended to make decisions based upon the impact that these would have upon significant relationships in their lives and the level of moral responsibility they felt in the situation. Rather than refer to a fixed set of 'rules' that would apply in all circumstances, women tended to refer more closely to the *context* within which the decision was being made. Feminist theorists following in her footsteps argued that women (and their ethical decision making) had, up until then, been constructed and examined from the perspective of the liberal individual, which had been the focus of much feminist critique. Feminist theorists including Sara Ruddick (1989), Virginia Held (1993), Joan Tronto (1993), and Eva Kittay (1998) began to write about ethics and moral philosophy from a feminist perspective incorporating insights arising from women's relationships of care. Despite differences in methodology, this group of feminist writers share the perspective that there exists a significantly 'different' morality or moral knowledge born out of the

caring relationships in which women tend to be more directly involved.<sup>54</sup> One of the most significant of these is the ‘mothering’ relationship. According to this group of theorists, ‘care’ and ‘responsibility’ are the substantive concerns for this ‘different’ moral voice as opposed to the ‘rights’ and ‘obligations’ focus of the ‘justice’ perspective informed by the liberal philosophical framework (Friedman 1993). Virginia Held, for instance, provides a critique of the ‘choice’ and ‘rights’ framework on the basis that it represents an inadequate model for understanding human relationships. Instead, she argues “[t]he most central and fundamental social relationship seems to be that between mother or mothering person and child” (Held 1987, p.114). She identifies characteristic elements of the ‘mother child’ relationship as being the “lack of choice and options” involved and contrasts this with the liberal assumption that “human beings are equally capable of entering or not into the contractual relations taken to characterize social relations more generally” (Held 1987, p.116). Others such as Sara Ruddick propose that the mothering relationship gives rise to a particular kind of thinking relevant to ethical and moral decision-making. Her quest is to discover “alternative ideals of reason that might derive from women’s work and experiences, ideals more appropriate to responsibility and love” (Ruddick 1989, p.9). Ruddick examines the work of mothering and practices associated with mothering, which she argues are central to women’s lives, either as mothers themselves or as daughters, sisters and friends of mothers. She seeks to describe the “relation between mothering and thinking” (Ruddick 1989, p.13), stating:

[m]aternal work itself demands that mothers think; out of this need for thoughtfulness, a distinctive discipline emerges. I speak about a mother’s thought – the intellectual capacities she develops, the judgements she makes, the metaphysical attitudes she assumes, the values she affirms. (1989, p.24)

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<sup>54</sup> Such theorists are often referred to as ‘ethic of care’ theorists. This is a broad term that covers a range of approaches. See Larrabee, M., (ed) (1993). *An ethic of care: feminist and interdisciplinary perspectives. Thinking Gender*. New York, Routledge.

Though elsewhere she argues for a conceptualisation of maternal thinking that includes both men and women, acknowledging that “maternal work can, in principle, be performed by any responsible adult” (Ruddick 1989, p.41), she is forced to conclude that the current gender division of labour is such that in most cultures “the womanly and the maternal are conceptually and politically linked. This means that to elucidate maternal thinking is also to elucidate a ‘woman’s way of knowing’” (Ruddick 1989, p.41).

Indeed, a good feminist argument can be made for elucidating this kind of thinking and knowledge. Beginning with Adrienne Rich’s (1976) *Of Woman Born*, feminists have attempted to draw attention to the way mothers’ voices have been silenced or overly sentimentalised. Unique insights into women’s moral reasoning may be facilitated by drawing attention to the experience and practice of motherhood, and this may be applied usefully to areas such as theorising peace and non-violence as is the case with much of Ruddick’s work. However, this may be less helpful in the area of reproductive politics where the insights about ‘maternal thinking’ or ‘ethic of care’ are often insufficiently grounded in its socio-political reality of essentialised motherhood and pro-natalism, having the potential to merely reproduce these relations when applied to abortion or infertility treatments.

#### **4.4 ‘Killing from care’: some problems with feminist moral discourses**

The focus on responsibility and dependence taken by both Cannold and Wolf that situates women’s moral decision-making within the realm of relationships of care is informed by the argument that motherhood is the paradigmatic example of this type of relationship. Cannold concludes from her research that women act as:

moral agents in decisions about unplanned pregnancy, making the most responsible, caring and appropriate decisions about the inter-connected lives of themselves and the lives within them.  
(1998, p.118)

Cannold's 'reframing' of abortion as a motherhood decision reflects the tendency evident in the work of many 'ethic of care' feminists to view the moral perspective 'arising' out of mothering relationships in a way that reduces women's morality to that *of* mothers. Feminist philosopher Virginia Held proposes, for instance, that "[t]he decision not to have children is often influenced by a comparative tendency to value the potential child" (1987, p.124). So, too, Naomi Wolf argues that, "[s]ometimes the *mother* must be able to decide that the fetus, in its full humanity, must die" (1995, p.33, my emphasis). In all of these cases we find women (pregnant or not) subsumed into the category of mother whose thought processes and decision-making capacities are constructed as morally superior. At the same time, the foetus is accorded 'full humanity'. There is little room within these scenarios for a woman to engage in a morally acceptable decision to abort a pregnancy or refuse motherhood *per se* unless she does so via the mothering perspective. Women who do not sufficiently adopt this 'maternal' approach toward abortion decisions are cast as morally questionable within many of the examples put forth by both Cannold and Wolf. For Wolf, however, the ability for a woman to claim her decision as one of the 'morally worthy maternal kind' is related to her socio-economic position. She speaks of a "moral spectrum" on which she places abortion decisions (Wolf 1995, p.32). For her, it is clear, a middle-class, white, educated woman could never be positioned at the far end of the morally defensible place on her spectrum. She lists a range of examples taken from her (middle-class affluent) life experience to demonstrate this point, including one of her own decisions to take the 'morning after pill'. In this case, she concludes:

In that moment, feminism came to one of its logical if less-than-inspiring moments of fruition: I chose to side-step biology. ... I chose myself on my own terms over a possible someone else, for self-absorbed reasons. (Wolf 1995, p.33)

Here, we see the familiar image of the ‘selfish’ aborting woman. Wolf characterises such a woman as one of the ‘logical’ outcomes of feminism. Tellingly, her conclusion is that it is feminism that has enabled her to ‘side-step biology’. ‘Biology’ according to this account is, for women, maternity. In this way Wolf reproduces the ‘good woman equals mother’ discourse. To ‘side-step’ biology (reduced to actual, or in this case, potential, pregnancy) is to reject the very essence of one’s identity as a woman, that is, motherhood. As the title of Wolf’s article ‘Our bodies, our souls’ suggests, the body, in particular the reproductive body, represents the ‘soul’ of women. In relation to abortion, feminism functions almost as if to separate women from their ‘souls’; in its place appears the ‘self-absorbed’ self. In order to re-inscribe the ‘soul’ of women Wolf advocates a ‘moral atonement’. For Wolf, a woman’s ‘self-absorbed’ reasons are almost the opposite, the ‘self’ that she is absorbed in here becomes the enemy of her true moral identity. A woman’s ‘self’ becomes elusive. In the very act of following her ‘self’ she denies her biology, her ‘essence’. This collapsing of the identity of the female self into the identity of the mother is characteristic of discourses that have underpinned the abortion debate in particular. Within such discourses abortions, particularly those of the ‘selfish’ kind (middle-class, educated, ‘ideal’ mothers-to-be), are inherently disruptive. It appears that for Wolf at least this struggle is resolved by reconciling women to their maternal ‘selves’ via a kind of moral failing requiring atonement and forgiveness. For Cannold, the same recuperation could be seen to be achieved via the ‘moral matrix of motherhood’ where, even in the act of rejecting maternity, it is reinscribed.

Rebecca Albury has noted that there has been very little, even amongst feminists, to challenge the assumption that “women who are voluntarily not-mothers are morally flawed” (1999, p.152). It is unsurprising that we find some of the most resilient assumptions about the morality of motherhood evidenced in the writing of Wolf and Cannold.

The above approaches replicate the ‘good woman’/’bad woman’ dichotomy that has been so successfully mapped onto the ‘maternal/non-maternal’. Women and mothers who do not engage sufficiently in ‘maternal thinking’ are relegated to a less moral, less responsible and caring mode of being. More importantly, women who do not exhibit such thinking are at the least suspect, if not immoral. Yet, even Ruddick suggests that “identifying virtues within maternal thinking should not be confused with evaluating the virtue of maternal thinking itself” (1989, p.25). As Rebecca Albury has pointed out, arguments such as these slip into a ‘woman equals mother’ equation all too easily. She writes:

[c]laiming that some aborting women display the characteristics of maternal sacrifice and responsibility undermines the feminist attempt to represent women as able to refuse motherhood. (Albury 1999, p.162)

Cannold’s emphasis on ‘killing from care’, where care is understood in the context of motherhood, has the potential to discursively link the moral with the maternal. Whilst it is not my concern here to consider the broader question of the usefulness of ‘ethic of care’ theorising for feminism in general, or abortion in particular (this is a necessary project for another time), it is my contention, however, that Cannold and Wolf have difficulties, as do some of the ‘ethic of care’ theorists, in providing an argument for women’s moral decision-making that does not rely on the characterisation of women as mothers or maternal. In relation to abortion, such arguments prevent a vantage point from which women can understand themselves outside the boundaries of maternal self. Drucilla Cornell has argued that feminists need to view abortion under the rubric of bodily integrity, stating that:

the wrong in denying a right to abortion is not a wrong to the ‘self’, but a wrong that prevents the achievement of the minimum conditions of individuation necessary for any meaningful concept of selfhood. (1995, p.33)

Both Cannold and Wolf place great emphasis in their discussions on the moral accountability of women's abortion decisions. The women whose abortion decisions they consider to be morally suspect tend to be those women whose decisions do not reflect the essential 'moral seriousness' of motherhood. Cannold's idea of a 'moral circle' does this by situating particular examples of 'bad' abortion decisions outside the circle. In Cannold's study, she reports that the women she interviewed concluded:

An abortion decision which did not reflect a woman's 'feelings' and 'love' for her could-be child and other significant people in her life, and which was not motivated by care and protective concern for all those she loves, was just plain wrong. (1998, p.xiv)

Wolf takes a similar position with her description of women who "have no excuse whatsoever for their carelessness" (1995, p.32). Women who do not show the same level of 'responsibility' as she does in her use of contraception fall short of her version of good womanhood. Wolf very much focuses on women like her, middle-class, educated women who have had options. The implication here is that such women should know and demonstrate through their actions that they value the seriousness of motherhood as indicated by their diligent use of contraception. Women are expected to 'know' and embrace the kinds of expectations that society has of 'mothers'. Despite her constant reference to feminism and the pro-choice movement, Wolf makes little room for the gendered nature of reproductive decisions or practices, including contraception. As Baird argues:

[t]he discursive field around contraception is complex and fraught, not the least because of the gender politics that surrounds penetrative heterosex, and the gendered negotiations of responsibility for contraception. (2006a, p.119)

It remains the case, for instance, that women carry the disproportionate burden for the use of contraceptive devices, including their unwanted 'side effects'. It is also the case that many

women are coerced by men into not using contraception, especially condoms. The above holds true even for middle-class, white women with ‘no excuse whatsoever’.

For both authors, however, pregnant women are constructed as ‘the mothers’ and hence those who can reasonably be expected to reflect such values. As Julia Hanigsberg convincingly argues:

... the problem is not viewing pregnant women as women making mothering decisions per se, but ascribing to pregnant women the ideological baggage associated with mothering in this culture. (1995, p.396)

#### 4.4.1 Women and moral responsibility

In her book Cannold presents her interviewees with abortion scenarios to consider. These include one of the female athlete who conceives and aborts to enhance her performance and another of a women who aborts when she has the unexpected opportunity to travel (1998, p.127). Cannold acknowledges these cases as extreme yet useful examples of unacceptable abortion decisions, inadequately informed by the kinds of mothering values that ‘good’ abortion decisions reflect. Wolf’s ‘inexcusables’ are middle-class, educated women. The above descriptions draw upon stereotypes of ‘selfish, frivolous’ or scheming aborting women that continue to be very powerful images in the abortion debate. The examples Cannold creates are useful, not for the reasons she gives but because they are familiar and they rely upon contrasting images of what moral women (read: mothers) would do. As Hanigsberg continues:

[t]he stereotype of women obtaining abortions ... draws its force from the fact that these women will be treated not as irresponsible women, but as irresponsible mothers, and as a consequence are subject to much harsher moral – as well as legal – sanction (1995, p.406)



Hence, women become 'responsible' for reproduction in these discourses in a way that reinforces the idea of women as essentially maternal in nature. In both cases, women are expected to 'just know' and to be able to draw upon an almost other-worldly knowledge that flows from deep within, a 'natural' instinct. Wolf draws upon this kind of 'women's instinct' in describing her own attention to detail when it comes to matters of reproduction, namely, her use of contraception. She states:

[w]hen the time comes to use a condom or prepare my diaphragm, I experience an alertness and attention to detail that are completely out of character. This level of focusing feels so mysterious and strong it is almost animal ... (1993, p.140)

Perhaps, unlike many women, Wolf has not engaged in heterosexual sex in circumstances which mitigate against such 'alertness and attention to detail'. By her own admission, Wolf describes a level of seriousness and responsibility that is unparalleled in other areas of her life. Wolf's argument promotes the view that women are, by nature, reproductive and therefore inclined towards behaviour that reflects this. This explains how even the desire to avoid motherhood (via an abortion or the use of contraception), can be reframed as a mothering decision within these discourses. Wolf argues that a woman who has an abortion needs to 'face the realisation that she has fallen short of who she should be; and that she needs to ask forgiveness for that, and atone for it' (1995, p.34). Both Cannold and Wolf focus on demonstrating women's moral agency in relation to abortion, mainly in response to the way anti-choice activists have represented pro-choice feminists as being devoid of a moral framework. 'Responsibility' figures throughout their work as central to the woman's ability to demonstrate agency. To be able to act on one's own behalf is to be able to take responsibility for that action. Here, however, women are constructed not only as 'responsible' for reproduction and mothering but the very notion of responsibility as exercised by women is linked to ideals surrounding 'motherhood'.

Of course, as I have highlighted earlier, the linking of women's nature with that of the maternal role in the family has a long history within liberal theory. Indeed, women's 'natural' maternal role disqualified them from serious participation in political life.

Women's reproductive capacities, in particular their care-giving role in the family, was proof of the inherent 'untrustworthiness' of their moral character (including their inability to exhibit 'reasonable' and 'rational' behaviour). Mothering itself is said to compromise the most highly valued trait of the liberal individual in western philosophy, reason. Ruddick situates the development of her thinking in relation to this argument, stating:

[r]eason was failing me – as a lover, mother, and citizen. As Western philosophers had idealised it, Reason was meant to be detached and impersonal, at best irrelevant to particular affections and loyalties. ... I needed to confront the sexual and social politics of reason, if only to speak self-respectfully to my children. (1989, p.8)

The 'morality of motherhood' approach taken by Cannold, Wolf and others toward abortion proves insufficient in its ability to confront the politics inherent in dominant moral understandings. Both authors establish women's moral agency by emphasising the need for women to embark on long and extensive reasoning and 'weighing' up of issues when considering abortion. In order to make a 'good' abortion decision women must not only apply a rational and ordered analysis of their circumstances (a decision to abort cannot be made in a whimsical or light-hearted manner, for instance, as with Cannold's example of the woman who wishes to abort a pregnancy to take up a travel opportunity), but women must also draw upon their connection with a maternal or mothering morality or 'instinct' to frame their decision. In this schema, in order to be 'moral' one must be rational but in order to be a 'moral woman' one must be a 'mother' or at least maternally-oriented. In this instance, women are labelled irresponsible if they fail to exhibit the hallmarks of a rational individual

making a decision like a 'mother'. They become women of questionable moral status – in much the same way as women who chose infertility treatments are viewed by some feminists as undermining 'natural' motherhood. Farquhar (1996) argues that feminists who have strongly opposed reproductive technologies often did so by developing a notion of 'good maternity', invoking an 'essence' of motherhood that would be recognisable to those wanting to oppose technologically-mediated 'bad' motherhood.

Cannold and Wolf's designation of some abortions as 'unjustified' results in the construction of a moral hierarchy amongst women determined by how closely they adhere to a moral reasoning based upon a combination of rationality and maternal knowledge. What is of concern about this focus on justifying a woman's decision to have an abortion is that whilst we may want to say that there are significant differences between women's lives and experiences that make abortion more or less of a real choice (meaning that other viable options are to a greater or lesser extent available as a result of financial, social and emotional circumstances), it is another to fall back on caricatures of women who 'should have known better' in judging whether an abortion is warranted. In both Cannold's and Wolf's accounts it is women with the most resources who nevertheless chose abortion who were least favourably viewed. Wolf states that "almost all of the abortions I know of resulted from careless contraception" (1993, p.141). She is careful to contain her critique of the 'careless' to women and men 'like her' – middle-class, educated and, as she puts it, with "more choices than almost any other women and men on the planet" (Wolf 1993, p.141). Women who have 'no choice' were viewed as more moral in their decision to abort. The end point of this argument, I believe, is that rather than imbue women with the 'moral agency' that Cannold talks about, we have some women who are categorised as inherently unable to exercise this agency by virtue of their circumstance. In many ways this reflects a long-standing tendency within abortion politics where, "legitimizing representations of a woman who actively desires an abortion are rare unless she is poor or her foetus is 'flawed'" (Baird 2006, p.133).

For the rest, Wolf implores them to “defend abortion rights, and undertake anti-abortion responsibilities” (1993, p.142). She goes on to argue, “[i]t is time for a new concept of sexual liberation: freedom through caring” (Wolf 1993, p.142).

#### **4.5 The language of motherhood – a common ground?**

Terminology is crucial within feminism and has been particularly salient in the abortion debate. Perhaps the clearest demonstration of this can be found in the language used to dichotomise the opposing positions as ‘pro-choice’ and ‘pro-life’. Indeed, Cannold views one of the key gains that her approach achieves is in re-naming the ‘abortion debate’ the ‘motherhood debate’, her argument being that the ‘shared language of motherhood’ will enable the abortion debate to move forward. Her suggestion is that such a shared language has the potential to bridge the gap between women who may currently be perceived to be on different ‘sides’ of the abortion debate due to a rigid ‘amoral’ focus on rights which, she argues, has tended to paint such women into corners. She also argues that bridging this gap could possibly end up securing abortion provision by expanding the moral circle of those who support abortion to include women in the ‘mushy middle’.<sup>55</sup>

Wolf’s desire for the ‘middle ground’ or a ‘common language’ is also connected to her desire to see feminism itself broaden its appeal. To be fair, whilst Cannold and Wolf may share a focus on the ‘moral’ aspect of abortion and invoke motherhood (and its value) in their arguments, they differ significantly in the purpose of their approach. In Wolf’s work we find very much a ‘corrective’ issued to modern day feminists based upon her own observations grounded in her experiences as a middle-class, educated woman in the United States. Cannold, however, takes the task of charting an ethical framework for abortion

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<sup>55</sup> This is how Norma McCorvey, the woman behind ‘Roe’ in the landmark decision to legalise abortion in the United States in *Roe v Wade*, describes her position on abortion. She is cited by Wolf as representative of the ‘middle ground’. Wolf, N. (1995). "Our bodies, our souls: rethinking pro-choice rhetoric." *The New Republic* 213(16), pp.26-33.

grounded in women's experiences as her central goal.<sup>56</sup> Both invoke 'motherhood' as a central value in their hierarchy against which the morality of a women's abortion decision must be judged. Wolf's 'good mother', however, evokes more of a spiritual, almost 'other-worldly' instinct that women, moral women, should draw upon in making the 'life or death' decision that is abortion. According to Wolf, such decisions are moral if they put the 'potential child' ahead of the woman's wishes. Wolf locates this potential child in what she calls a "matrix of the sacred" (1995, p.31). Cannold's 'moral matrix of motherhood', rather than re-invoking the chasm between the 'mother' (good woman) and the 'aborter' (bad woman), attempts to establish the connection between the two, arguing that women have always viewed their abortion decisions as connected to mothering.

As is evident in the work of Cannold and Wolf, there are a number of difficulties inherent in using the 'shared' language of motherhood in the feminist moral discourses surrounding reproduction. As has been the tendency with feminists opposed to reproductive technologies, a conceptualisation of 'good motherhood or maternity' is contrasted against its opposite, technologically mediated maternity. Such arguments rely upon invoking an 'essence' or 'natural' maternity. It seems that the language being used makes most sense to those with concerns about women's moral 'credentials'. One suspects that these understandings whilst familiar to both pro-choice and anti-abortion protagonists, as Cannold argues, are likely to be differently assessed by the two groups. Similarly, when Naomi Wolf argues for recognising the inherently 'moral' or even 'spiritual' nature of abortion decisions for women, asking women (and other feminists) to focus on concepts like 'forgiveness' and 'sin' in their attempts to understand and theorise abortion, we hear a familiar but perhaps not 'common' language.

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<sup>56</sup> Her book is based on interviews with Australian women.

Cannold and Wolf's work forms part of a growing move toward what Nancy Davis (1993) identifies as 'rapprochement strategies' within the abortion debate, that is, the desire to identify 'common ground' or 'points of convergence' between pro-choice and anti-choice adversaries. This is perhaps most clearly demonstrated in the recent coalition between some Australian radical feminists and self-proclaimed 'pro-life feminist' Melinda Tankard Reist.<sup>57</sup> Both Cannold and Wolf are eager to gain the support of what they call 'the centre' or 'the middle ground' respectively. It is worthwhile exploring whether there is anything particularly feminist about this approach to abortion and, if so, what. Davis (1993) argues that at the essence of the debate remains a conflicting view of what is 'quintessentially female'. So whilst there may be wide-ranging agreement on both 'sides' that concepts like 'nurturance' and 'care' are in some way either more 'natural' to women or a 'source of cultural value and female authority' (Davis 1993, p.533), there remains a stark difference between acknowledging this characterisation and then going on to consider what this view might mean for abortion politics. If a 'women's morality' is represented, however, as being in some way connected to their 'difference' via motherhood, then feminists need to explore the implications of utilising such arguments in debates surrounding reproductive politics. Davis (1993) suggests, for instance, that at best there may be symbolic and practical gains among female abortion activists but not necessarily for the abortion issue itself. Activists on 'both sides of the fence' so to speak may gain from a shared dialogue about important social issues like child care and maternity leave, yet this may only have the effect of defusing the abortion debate and redirecting energies toward shared concerns, rather than reframing or resolving the abortion debate/s itself. Others, such as Maggie Patterson and Megan Hall (1998) who have examined this shift toward seeking a common ground in print journalism in the United States, are more favourable. They suggest that 'common ground' rhetoric represents a "push to a higher level of moral maturity in our society" (Patterson and Hall 1998, p.93). In their estimation, "new common ground arguments represent an emergence of

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<sup>57</sup> See Klein, R. and S. Hawthorne (2012) "The authentic feminism of Melinda Tankard Reist." *ABC online: Religion & Ethics* (accessed 30/1/2012).

the feminine ethical response of care and responsibility into the foreground of public discourse ...” (Patterson and Hall 1998, p.91). This opens the question as to whether a ‘feminine’ response is the best way forward for a *feminist* politics of reproduction. It is notable that this version of ‘feminine’ ethics is able to emerge in such a way in public discourse.<sup>58</sup> I suggest that it can be accommodated because it is easily read as a traditional argument for women’s natural inclinations towards consensus building, co-operation and peacemaking, characteristics easily subsumed under the rubric of maternal instincts or mothering capacities – hence, the word ‘feminine’ replacing ‘feminist’. Many have argued against such understandings of women and care, pointing out that such approaches specifically value those socialised attributes that women have developed in response to experiences of oppression (Puka 1993).

#### **4.6 Contextualising feminist moral discourses**

Susan Hekman points out that the ‘different voice’ of feminist moral thought implies an “alternative moral epistemology” (1999, p.116). Importantly, she asserts that “(m)oral voices develop in tandem with selfhood itself; both are social processes that are constituted by participation in a community of values” (Hekman 1999, p.118). Unlike some of the more sophisticated approaches within feminist moral theory, both Cannold and Wolf give insufficient attention to consideration of the influence that a male-dominated society may have on the values that a community (and the individuals within it) develops. As Elizabeth Porter has argued:

[w]omen’s training in the consideration of others has taught women how to exercise care in regard to vulnerable lives. Their decisions are likely to be morally informed. Thus, the

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<sup>58</sup> I will explore this in more detail in relation to media representation in Chapter 6.

‘morality’ of abortion is intimately connected to the social practices of care, nurture, and responsibility for others. (1994, p.85)

Whilst Porter does not suggest that the capacity to exercise care in the way she describes above is problematic, she does point strongly to the fact that attention must be paid to the social context in which these capacities are developed and exercised. Indeed, I would suggest, it is necessary for feminists to engage critically with moral theory based in an ‘ethic of care’ in order to assess which account of the social context is present within such approaches. Neither Cannold nor Wolf considers such questions. I agree with Porter (1999) that Wolf’s work insufficiently acknowledges the theoretical contributions of feminists in the area of moral theory and for this reason Wolf’s claim that she is presenting a ‘new’ voice to the feminist terrain is questionable. I argue, however, that Porter fails to see that the ‘new’ feminist abortion moral framework represented by Cannold and Wolf is limited in its ability to represent a ‘new’ contribution on another level. That is, it is underpinned by the construction of women as mothers and of (some) women as morally ‘untrustworthy’. This is where the development of a feminist ethics or morality as separate or mutually exclusive from the political goals feminists have identified in relation to the social context is problematic. Joan Tronto (1993), in her book *Moral Boundaries: A Political Argument for an Ethic of Care*, argues that to take care seriously we need to account for the practices of care in most people’s lives. Importantly, as feminist theorists, we need to ask “what alternative vision informs our account of what moral life should be?” (Tronto 1993, p.x). It is not adequate merely to suggest, as does Wolf, that women need to develop an “ethical relationship to abortion” (1993, p.141) based upon “reproductive responsibility” or to suggest that women seek “freedom through caring” (1993, p.142) without addressing the political nature of care and responsibility within the gendered social context. As Tronto points out, “how we think about care is deeply implicated in existing structures of power and inequality” (1993, p.21). There are considerable difficulties inherent in how the concepts of



‘care’ and ‘responsibility’ are invoked within this increasingly influential discourse on the morality of the aborting woman. The difficulties in Cannold’s and Wolf’s work centre around two main issues: firstly their failure to “reject the terms for discussion set by the logic of the outsider’s situation” (Tronto 1993, p.20). In other words, both come from a starting place established by what Tronto refers to here as the ‘outsider’s logic’, in this case, the immorality of the aborting woman and/or the abortion decision. Secondly, in arguing for a women’s morality based upon values related to motherhood or mothering, neither writer adequately takes into account the relationship between how we think about care and caring and the existing structures of power in our society related to dominant understandings of motherhood and the maternal.

Wolf provides the reader with some indication that she is aware her framework may be problematic in a political sense for feminism. Her desire for a ‘darker, sterner’ moral rhetoric in relation to abortion is a conversation that she argues does not belong in the legislative arena (Wolf 1995; Alvare *et al.* 1997). In this way, Wolf attempts to avoid the all too common outcome of these ‘debates’ – further restrictions upon women’s access to abortion services. By avoiding such considerations her approach is at best ignorant of the very real threats to abortion rights that women face; at worst she is indifferent to these dangers. As Alice Miller and Melanie Rock have argued:

[i]ronically for feminists, ‘self-governance’ in accordance with perceived moral obligations may exert at least as much influence as regulations or legislation that clearly delimit available options during pregnancy (Miller and Rock 1998, p.297)

In the end Wolf’s ‘moral responsibility’ is regressive for women; it reinscribes women’s role as naturally maternal whilst at the same justifying this position as a response to the ‘gains’ that women have made. Wolf views women’s ‘advances’ as the impetus for this new moral

language. She states, “[a]s the world changes and women, however incrementally, become more free and more powerful, the language in which we phrase the goals of feminism must change as well” (Wolf 1995, p.35). This raises the question as to what might be the political implications or conclusions from the kind of language favoured within the moral discourses of Wolf and Cannold.

#### **4.7 The importance of a feminist political analysis for abortion moral discourses**

I turn now to explore the extent to which the theoretical tools or insights offered by the above moral discourse/s contribute to the achievement of feminist political goals in relation to abortion or infertility treatments. Whilst both Cannold and Wolf demonstrate a comprehensive understanding of the legal context of abortion and its vulnerable place within the legal systems of both Australia and the United States, this is not the focus of either writer in their development of a feminist moral discourse for abortion. Indeed, for Wolf, the tenuous position of abortion rights in the United States seems to register as a mere incidental aspect of the overall picture and is not given much weight in her narrative. Indeed, she proceeds with her argument on the basis that “some rights are safe for some women for the moment” (Wolf 1993, p.141). Wolf’s relative lack of attention to the volatile political realities of abortion is troublesome. Cannold, however, identifies what she sees as a shared project with Wolf; that of drawing attention to and gaining the support of the so-called ‘middle ground’ in abortion debates, lest these very same people be drawn toward the argument of those who would see abortion made illegal. Wolf, on the other hand, is more concerned with removing what she views as feminist ‘litmus tests’ of which abortion is one. The aim for her is “[a] feminism worthy of its name [that] will fit every woman comfortably” (Wolf 1993, p.143). It is clear that feminists need to acknowledge the political context into which their arguments enter and from which they are derived. This is particularly the case when it comes to abortion where the political stakes are high and are

complicated by a complex array of overlapping discourses surrounding motherhood and maternity. As feminists, this has particular implications.

If we assume that our analytic assumptions derive from particular social and intellectual traditions, then we have a responsibility to formulate responses with a heightened awareness to the historical and cultural idiosyncrasies of those traditions, and to make our reflexivity explicit (Morgan 1996, p.62).

A moral focus in relation to women's reproductive decisions is not in itself problematic but a lack of concomitant political analysis is. In her critique of some feminist philosophical approaches to foetal relationality and abortion, Lynn Morgan encourages feminists to remain attentive to the broader context, suggesting that we "have a responsibility to be reflexive and self-critical, to think about the kind of world we want to create" (1996, p.63). It is not my suggestion that political analysis *per se* is absent from the work of the writers examined here but I am suggesting that when talking about women's morality and reproductive choices this focus needs to be explicit throughout. As Joan Tronto suggests: "we should make the intersection between morality and politics a starting point for thinking about morality" (1993, p.97).

It seems central therefore to ask in what ways the shift toward 'women's morality' impacts upon the position of women in relation to issues surrounding reproduction. In other words, if the concept of 'women's morality' is represented as being in some way essentially connected to, or a function of, motherhood, then the implications of this stance need to be fully explored for feminists utilising such concepts in reproductive politics. If pro-choice activists are implored to produce a moral defence or justification of abortion where the dominant moral framework or 'matrix' is motherhood, there is the inherent potential to shift the debate

toward understandings that are equally as restrictive as those implied by the ‘rights’ discourse that such approaches ostensibly seek to leave behind.

#### **4.8 Concluding remarks**

The political nature of ‘moral’ understandings should not be lost in the desire to move beyond previous approaches. As Margaret Walker suggests

... for moral philosophy to be sincerely reflective it must attend focally to questions heretofore considered ‘philosophically’ inappropriate: questions about the rhetoric and politics of ethics (1989, p.23).

This was indeed the case when feminists first started exploring moral philosophy from a feminist perspective, questioning the assumptions made within traditional philosophy and making an argument for broadening the focus of enquiry to more adequately reflect women’s lives. Moreover, in doing so, feminists were able to produce new theoretical insights based upon critical analysis of previously taken-for-granted philosophical ‘truths’. Feminist theorising on motherhood and care is a good example of this development. Such analysis can reveal the contradictory position/s of women within such discourses. As Patrice DiQuinzio observes:

[i]ndividualism and essential motherhood together position women in a very basic double bind: essential motherhood requires mothering of women, but it represents motherhood in a way that denies mothers’ and women’s individual subjectivity. (1999, p.xiii).

The difficulty liberal feminists had ‘fitting’ women’s pregnant bodies within the individual rights-based legal frameworks is reflective of the above double-bind. In casting women’s bodies as either ‘just like’ men’s, except when pregnant, or analogous to a ‘disabled’ body before the law, we witnessed a range of other impacts deriving from the contradictions

outlined above. The works of Leslie Cannold and Naomi Wolf reflect an inability to bring women into reproductive discourse in ways other than those that have been traditionally mapped out – as ‘gender-neutral’ rights-bearing citizens or as inherently maternal. I argue that this is the consequence of both writers failing to incorporate the nature of feminist political goals into their analyses. As Joan Tronto argues, “... feminists ignore the political setting of their moral arguments at their peril” (1993, p.3). Adequate attention to the political context is crucial when proposing possible reforms or approaches as it enables us to explore the ways in which such reforms of reproduction will potentially be taken up.

Discussing the arguments contained within *The Abortion Myth*, Rebecca Albury suggests that Cannold “finds it difficult to place her insights about women’s moral decision making into the political debate” (1999, p.167). Cannold is not alone here. Shifting the well-trodden path of the abortion terrain is difficult. The dichotomous thinking that both Wolf and Cannold pinpoint as problematic is a significant obstacle to this goal. The strategy of ‘co-opting’ the ‘other side’ of the debate, that is, defining ‘care’ and ‘responsibility’ from a feminist perspective in the abortion debate, will only be effective if at the same time we see an equal challenge to the power that non-feminist discourses have in relation to the discursive construction of these terms. There is a risk that the ‘new’ feminist moral discourses on abortion can be easily assimilated into the prevailing understandings in the legal or medical arenas that have such a strong influence on outcomes in the abortion debate. The construction of the ‘maternal’ and ‘motherhood’ within these arenas are the most influential of these understandings. This is, of course, a good argument for feminists to maintain a focus on how these terms operate within dominant discourses on reproduction. The problem is when the highly contingent and political status of ‘mothering’ or ‘motherhood’ is not taken into account sufficiently.

The above problem has led many feminists toward the possibility of ‘strategically’ invoking essentialist categories like ‘the maternal’ in order to achieve feminist political goals.

Michelle Michaels, for instance, argues for a move “toward a strategic maternal ethic” (1996, p.9). She argues that the various ART enable the development of a radical maternal subject of feminism. She describes this subject as “a heterogenous subject who is strategically positioned against the unifying discourses of ‘natural’ motherhood ...” (Michaels 1996, p.57). It could be argued that abortion presents a far more resistant space for presenting a ‘heterogenous maternal subject’. Discourses surrounding abortion remain particularly resistant to alternative positioning, particularly in relation to the aborting women. Indeed, shifting this resistance is one of the goals of Cannold’s book. The question remains as to whether expanding our understandings of ‘good mothering’ to include abortion is an effective vehicle for this strategy. There is little room within this discourse for a ‘good abortion’, for instance. Does this reframing affirm abortion not just because it is morally defensible through the lens of ‘good motherhood’ but merely because a woman desires it and feels that this fits with her plans/needs/goals for herself, whether or not she actively engages with notions of motherhood in this process? As noted earlier, and as evidenced in various feminist and non-feminist commentary, so far only ‘flawed’ women (that is, women for whom motherhood is coded as undesirable) are legitimated in their abortion decisions (Baird 2006).

Elizabeth Grosz has questioned the possibility of the strategic use of essentialist categories. She states that “[t]he notion of strategy involves the idea of voluntarily adopting a role” (Grosz 1994, p.16). Such voluntarism, she argues, assumes an ‘abstraction from’ or outsider position from which to invoke strategically such categories. One of the problems with the idea that one can choose a particular identity is that it has the potential to ignore the impact of power relations upon the varying availability of competing subject positions. The other problem, connected with the first, is that this approach may limit our ability to account for

the continuing power of some discourses (for example ‘motherhood is natural’) over other discourses. Such power differences do not figure explicitly in the approach of Michaels; she suggests that feminists’ focus on the proliferation of maternal positions within the discursive field of motherhood is a positive sign, arguing that “... this proliferation deranges the founding binarisms of man and woman, mind and body, nature and culture, that set the terms of reproduction under the heterosexual contract” (1996, p.14).

In a reproductive landscape containing a ‘proliferation’ of maternal positions, it is notable that the ‘new’ moral focus taken by the feminists discussed in this chapter still tends to invoke traditional understandings of maternity, motherhood and its relationship to women. As Ingrid Makus observes, “[w]hen women are deemed to be naturally benevolent and caring, extending to them rational control over reproduction as a prerequisite for liberation appears less threatening” (1996, p.196).

The creation of new meanings of maternity and motherhood are one of the potential benefits that some feminists exploring reproductive technologies and the surrounding discourses have identified. Meanings of reproduction and the reproductive body itself are challenged by many of the new reproductive practices. Meridith Michaels asks:

[w]hat sort of body can evade both the dangers of male domination and of a feminism that overdetermines it as a product of that domination? ... it is precisely the sort of body whose boundaries are redrawn beyond the naturalized processes of a heterosexist economy. (1996, p.8)

Dion Farquhar also views ART as having the ability to subvert heterosexual norms. Yet at the same time she acknowledges the paradoxes at play, acknowledging:

[t]oday, ART both reinforce obsessive natalism and fetishize biogenetic paternity and maternity at the same time that they undermine it through third-party assistance and non-sexual conception, rendering old reproductive and genealogical narratives inadequate. (Farquhar 1996, p.36)

A clear problem with ART's role in disrupting the unified maternal subject, however, is that they rely on highly medicalised practices which remain circumscribed by class, race, sexuality and other social categories for their realisation. We must remain attentive to the ongoing political effects of the practices of reproductive technologies including the 'old' technology of abortion. In doing so feminists need to resist narratives that (re)construct old storylines via 'new' technologies if they are presented as if they are disconnected from the prior social landscape by virtue of their 'newness'. As Valerie Hartouni explains:

We are not simply creatures of nature or creatures with a nature who have suddenly acquired technology that only now permit us to rewrite and thus remake ourselves fundamentally at the cellular level. Neither are we creatures upon whom technology has simply been applied or imposed. Rather, we are creatures who have and who continue to constitute ourselves and our world through our social and technological practices even as we are also constituted by these practices. (1993, p.105)

One of the key sites of this constitution within public discourses on reproduction is that of the media. Media representations continue to focus on particular versions of the maternal and motherhood against which abortion and ART are assessed. Indeed, it is the case that a large part of the recent increase in interest and debates on abortion and ART relates to representations of the various 'ethical dilemmas' and controversies covered in the media. So-called 'popular' feminisms have become a large contributor to this phenomenon of which Cannold and Wolf are part. This is an important site for the future of reproductive politics in Australia and elsewhere. It is an increasingly powerful site of meaning-making within



broader public discourses on reproduction. Reproductive futures are intimately connected with the meanings negotiated in this realm. Albury argues:

[t]he social meanings of the mother and the non-mother will have to be addressed in more sophisticated ways in order for the interventions to have the impact of ‘a woman’s right to choose’. (1999, p.152)

The next chapter moves on to consider the realm of public discourse analysis, especially within the media. I suggest that close attention needs to be paid to the meanings created and reproduced within media discourses as reproductive politics is increasingly debated and played out within this forum.

## Chapter 5     Analysing public discourses

### 5.1 Introduction

In this chapter I will discuss the ways in which the social context, in particular, public discourses contained in the media, have increasingly come to play a central role in the politics of reproduction. The purpose of this chapter is to detail how an examination of media coverage can provide us with useful information about the discursive space that reproductive politics occupied in Australia throughout the period under examination, 2000 to 2007. I begin with an overview of the role of media in the construction of contemporary social controversy and debate and detail the approach that I will take toward the analysis of newsprint media coverage of debates surrounding lesbian and single women's access to ART in the next chapter. I argue that analysis of the content of media discourses can provide unique insight into the broader dynamics of public discourses that focus on reproductive 'controversy'. Following on from this I will explore the social and political landscape within which the media debates concerning lesbian and single women's access to ART arose.

### 5.2 Public discourses and the media as a site of political contest

The media is a key site for the production and reproduction of social and symbolic meanings. Unlike other public discourses that derive from the government, the courts, political interest groups or other institutions, the media is often viewed as somewhat 'at a distance' from the meanings contained within its discourses. In other words, it can often be seen as merely engaging with pre-existing debates and dilemmas derived from other arenas. Yet, as Press and Cole argue, "[t]oday the mass media are active participants in our social conversations about political and cultural matters, influencing our ideas, opinions and values" (1999, p 125). Others go further, suggesting that modern mass media represents the major site of political contest (Ferree *et al.* 2002). Indeed, the significance of the role of the

media in shaping and informing public debate on abortion and infertility treatments has been widely noted (Patterson and Hall 1998; Ferree *et al.* 2002; Cannold 2005a; Albury 2007).

In their detailed analysis of abortion discourses over a three decade period in Germany and the United States, Ferree *et al.* (2002) utilise concepts which are helpful to my discussion here. They consider how particular elements of the arena of public discourse come to impact significantly upon what it is possible to say and the meanings created by the various *actors* (participants) within debates. They suggest:

[t]o understand the dynamics of a discourse, it is therefore necessary to ask about the actors who are meeting within the arena of public discourse, an arena that is most effectively organized and structured by mass media in modern societies. (Ferree *et al.* 2002, p.xiii)

I intend to take up elements of their approach in order to examine selected media debates surrounding access to infertility treatment and how these inform the broader public discourse on motherhood and maternity in Australia. To begin with I will detail some of the key concepts used by Ferree *et al.* (2002) before moving on to exploring these in relation to the Australian setting and the debates examined in the next chapter.

Ferree *et al.* (2002) argue that within any discursive contest in the public realm there are ‘outcome variables’ which they call *standing* and *frames*. These ‘outcome variables’ inform how ideas are taken up, to what extent they are taken up and their ability to go on to significantly influence the overall debate. *Frames* are understood as ‘thought organisers’; they “privilege certain meaning elements at the cost of others” (Ferree *et al.* 2002, p.xiii). In ‘pro-life’ abortion discourses, for instance, we often find a focus on the ‘baby’ as separate from or indeed, in competition with, the pregnant woman. Here, the term ‘life’ in ‘pro-life’ is to be exclusively represented by the baby. The meaning of the pregnant woman’s ‘life’ is

absent from these discourses, thereby allowing 'life' itself to be represented by the foetus in preference to other versions of 'life' whether it be that of pregnant women or other human and non-human lives in general. Until quite recently, the anti-abortion movement relied almost exclusively on this framing of foetal life as its central discursive strategy with the resulting claim that abortion is therefore 'murder'. Ferree *et al.* (2002) also observe that certain 'preference structures' follow on from the frame chosen. When an *actor* takes up the 'pro-life' *frame* there is an in-built preference for a focus on the foetus. "It is easier for an actor to be in line with the built-in preference structure of the frame chosen" (Ferree *et al.* 2002, p.xiii).

*Standing* refers to the "ability to have one's views transmitted through the media" (Ferree *et al.* 2002, p.59). The standing of an actor can vary according to a range of socio-cultural and political factors. In my examination of the case studies in the following chapter it is clear that particular voices have more standing in the debates and that certain frames are repeatedly thrust forward as 'common sense' or the most 'obvious' explanatory framework. The role of expertise in recent debates surrounding abortion is one example. Here, the standing of medical, academic and research expertise, whilst ordinarily accorded significant standing in relation to public debates concerning health matters, was rendered less influential than those of interest group representatives and politicians (Duvnjak and Buttfeld 2007). Dominant discourses at the time questioned the motives and professional integrity of anyone involved in providing abortion services, thereby lessening the standing of actors speaking from such positions (Ripper 2001). The perceived impartiality and valorised status of 'bioethics' was increasingly utilised by those on both sides of the abortion debate in an attempt to regain their standing (see Chapter 3).

The media has a central role to play in reinforcing particular 'truths' in the debate surrounding reproductive practices. In focusing on media representations, however, it is

important to recognise that such representations are both derived from, and received within, particular social contexts (Linders 1998; Press and Cole 1999). Therefore, we must also attempt to make sense of the social context in which media representations are located. Indeed, the *standing* of any particular *actor* and the *frames* they utilise within particular discursive settings derive in complex ways from the social context. In order to better understand how varying solutions are proposed for the same ‘problem’, as has been the case for both abortion and ART, it is necessary to adequately take account of the social context of public discourses.

In her examination of how the United States and Sweden responded to the ‘problem’<sup>59</sup> of abortion in the late-nineteenth and early-twentieth century, Linders found that despite both countries characterising the problem as one “of surging abortion rates, coupled with declining birth rates ...” (1998, p.488), very different solutions were proposed. Whilst the United States moved to criminalise abortion, Sweden liberalised its abortion laws. As Linders observes:

[t]hese different solutions ... emerged from interactions with the specific context in which the respective problem arose. This larger context, then, can be seen as a backdrop against which claimsmakers defined the problem and identified solutions. (1998, p 489).

Similarly, Ferree *et al.* (2002) explore how two very different abortion discourses have emerged in the United States and Germany. They note that while in Germany abortion has been explicitly defined as a “women’s issue”, in the United States “reproductive rights were granted to a non-gender-specific individual, the ‘pregnant person’, in the words of the Supreme Court” (Ferree *et al.* 2002, p.291). In the United States, as in Australia, the liberal legacy of the autonomous individual and the public/private split still produce a suspicion of

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<sup>59</sup> Both countries frame abortion as a social problem. My use of inverted commas is in recognition of the socially constructed nature of what is designated to be a problem at any given time in a society.

the gendered voice of women within the public discursive space. Ferree *et al.* (2002) suggest that, whilst the differences in the debates in each country are strongly influenced by the efforts of actors towards shaping the overall discourse, these contrasts are also restricted by what they call the *discursive opportunity structure* in each country. *Discursive opportunity structure* refers to the special features, such as the authority of religious, legal or medical voices, in which a framing contest, like that of the abortion debate in Australia, takes place. They use the example of a playing field, suggesting:

... the contours of the playing field can change suddenly in the middle of the contest because of events that lay beyond the control of the players ... This complex playing field provides advantages and disadvantages in an uneven way to the various contestants in framing contests. (Ferree *et al.* 2002, p.62)

In this way, and in line with the legacy of liberal thought detailed in the previous chapter, the ‘discursive opportunity structure’ in the United States and Australia is such that women’s needs in the abortion debate are most often framed via the ‘mother’s voice’ or motherhood or as the gender-neutral citizen. We can see the advantage that this structure affords those who utilise such frames in the public discourse. Cannold’s (1998) focus on the mother in *The Abortion Myth* is an example of this usage and goes toward explaining the ease with which her ideas were subsequently ‘taken up’ and dispersed within public discourses.<sup>60</sup>

To have one’s preferred framing of an issue increase significantly in the mass media forum is both an important outcome in itself and carries a strong promise of ripple effect. (Ferree *et al.* 2002, p.10)

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<sup>60</sup> After the publication of *The Abortion Myth*, Leslie Cannold appeared regularly in the Australian media (both print and broadcast) as the preferred expert feminist voice on abortion. Her *standing* as an ethicist can also be seen as a significant influence upon this popularity.

Such observations pose an important challenge to the idea that media coverage of abortion and ART debates are somehow about ‘facts’ which inevitably ‘speak for themselves’. Both Linders (1998) and Ferree *et al.* (2002) draw our attention to the instability of the ‘facts’ and argue for greater awareness of the way meaning is made within particular social contexts. I will now turn to the ‘backdrop’ of the media debates in Australia, exploring elements of the social context during the period under investigation.

### **5.3 The social context of media debate on abortion and access to ART in Australia 2000-2007**

In Australia we have seen what may be described as an ‘explosion’ of interest and focus on abortion and infertility treatments, in particular throughout the years 2000-2007. Within media coverage of debates concerning abortion and reproductive technologies, the peak of this interest occurred in the years 2004-2007 and coincided with the period in office of the conservative coalition government led by John Howard. The Howard government was elected to federal parliament in 1996 and won four successive elections before being defeated by the Rudd Labor government in 2007. The period 2004-2007 covered the fourth term of the Howard government. Significantly, it was throughout this fourth and final term of office that the Howard government enjoyed a majority in the Senate. The Senate is the Upper House of Parliament and the final house of review for proposed legislative change. When the Howard government held a majority of Senate seats this allowed for the passing of legislation without the support of sitting members of the opposition Labor party, minority parties or independents. Within the Australian political system the Senate has significant power and has the ability (though rarely exercised) to prevent ratification of the supply bill which enables government expenditure; doing so would halt the business of government. Having a majority in the Senate (arguably) allows more freedom for the incumbent government to enact its political agenda. The Howard government was known both for its socially conservative values and its support for a neo-liberal free market strategy in public

policy (Brennan 2007; Warhurst 2007). Additionally, religious influence in Australian politics intensified during the Howard period in office with one observer noting that during the decade of the Howard government religion had “a higher political profile than at any other time since the 1950s” (Warhurst 2007, p.19). The above factors functioned to produce an environment where reproductive politics and debates that intersected with abortion and ART in the public realm took on particular meanings. The Howard government was outspoken in its support for the ‘mainstream’ family typified by the married heterosexual couple with children (Johnson 2003). Discourses that rely upon ‘family values’ to underpin them have become a regular feature of Australian public policy and political debate and have come to have a significant influence upon a wide range of areas including social welfare, public health and even cultural identity. This was particularly the case throughout the era of the Howard government which ushered in a new focus on conservative and traditional interpretations of the family (Summers 2003; Maddox 2005; Webster 2007). It was also during this time that the new Christian based ‘Family First’ political party emerged. The party relied in particular on promoting and supporting the traditional family, stating that:

Family First believes ‘family’ refers to relationships that bind grandparents, mums and dads and their children and form the basis of a community. Family life flourishes when couples strive for a stable and loving relationship and are faithful to each other. The best environment to raise children is for them to have both a mother and a father. (Family First 2011)

The ‘family’ quickly became a staple in the discourse of Australian politicians, particularly during federal election campaigns where party slogans regularly utilised ‘the family’ as a rallying point. The prominence of ‘the family’ as a discursive tool utilised by claimsmakers in the public realm has come to have very specific social and economic implications, particularly when utilised by those in positions of power and influence such as politicians. The Howard government’s reliance upon ‘the family’ as a concept functioned to bring



together a range of beliefs and values central to the conservative political agenda of the government at the time (Maddox 2005). Indeed, as the following chapter details, the former Prime Minister's use of 'the family' was a key contributor to the debates surrounding lesbian and single women's access to infertility treatment.

A conservative moral agenda was increasingly evident in both the policies of the government and the personal views expressed publicly by government ministers at the time (Maddox 2005). The opposition Labor party similarly focused its political rhetoric on the family, in their case, through repeated reference to the 'working family'. Controversial topics such as euthanasia, stem cell research and abortion, all the traditional territory of 'pro-life' campaigners, were once again thrown into the spotlight featuring prominently in the media. These topics were often raised in public forums by members of the Howard government and subsequently taken up by 'pro-life' and other conservative commentators. A number of other issues informing and influencing both the abortion debate and the debate concerning lesbian and single women's access to ART also received considerable attention throughout this period. These included debate concerning the introduction of a paid maternity leave scheme, family law amendments, gay and lesbian rights, and a purported 'fertility crisis' often attributed to women choosing to 'delay' childrearing. Such topics appeared frequently in both public and political forums for debate and discussion throughout the period (Johnson 2003; Brennan 2007).

At the same time, a dominant neo-liberal market philosophy came to characterise both Coalition and opposition Labor party approaches to broader public policy. Neo-liberalism promotes the ideal society as one in which a free market environment characterised by small government allows individuals to exercise ever-increasing choice (often enacted as consumer choices) as a means of achieving both personal and societal goals and stability. Choice and individual responsibility are the main underlying values of the neo-liberal society whereby

governance is often achieved via the “regulated choices of individuals” (Rose 1993, p.285). As Gill concludes, “[n]eo-liberalism is understood increasingly as constructing individuals as entrepreneurial actors who are rational, calculating and self-regulating” (2007, p.163). Many women, including some feminists, likewise increasingly deploy an ideal of ‘choice’ exemplified by the neo-liberal free market choosing individual in their arguments for women’s equality or freedom (Baker 2010). McRobbie describes what she calls the ‘double entanglement’ characteristic of the emergence of a ‘post-feminist’ era whereby we witness the co-existence of “neo-conservative values in relation to gender, sexuality and family life ... with the processes of liberalisation in regard to choice and diversity in domestic, sexual and kinship relations” (2004, p.256). Throughout the debates surrounding abortion and ART that will be examined here, we see evidence of this ‘double entanglement’. As a result, even those voices ostensibly representing women’s reproductive freedom in these debates, at times reproduce restrictive notions of ‘the family’ and ‘motherhood’ (thereby invoking conservative values) at the same time as championing the ideal of neo-liberal ‘choice’ for women. In the following section I will look in more detail at some of the above debates as a way of examining the *actors* and *frames* that came to predominate in the public arena during the time of this renewed interest in aspects of abortion and ART.

### 5.3.1 Abortion in the Australian media 2000-2007

Throughout 2004-5 the then federal Minister for Health in the Howard government, Tony Abbott, made a number of public comments highlighting what he viewed as an unacceptably high rate of abortions in Australia at the time (Albury 2007). In his view, Australia was experiencing an ‘epidemic’ of abortions (Gratton 2004a). Comments made during a speech given to the Adelaide University Democratic Club in March 2004, ushered in a period of intense debate on abortion. Abbott was quoted as saying at the time:

... [e]ven those who think that abortion is a woman's right to choose should be troubled by the fact that 100,000 Australian women choose to destroy their unborn babies every year. (cited in Albury 2007, p.3)

Rebecca Albury refers to this speech as a significant “marker event” in the contemporary debate about abortion policy in Australia (2007, p.2). Importantly, she notes that politicians and other commentators who subsequently took up this issue were “not responding to a public demand for a change in abortion policy, but seeking to encourage a demand for their preferred response” (Albury 2007, p.3). Indeed, media commentary at the time noted the lack of community concern for the issue and pointed to the fact that public opinion polls taken on abortion in Australia over the previous 20 years consistently show overwhelming public support for women to retain access to abortion services (Betts, 2003; Symons 2004). Despite this fact, the comments came at a time when the *discursive opportunity structure* was such that the conservative anti-abortion rhetoric expressed by the then Health Minister gained prominence within broader public discourse. The key elements of the *discursive opportunity structure* were the coexistence of a morally conservative yet free market oriented Coalition government along with the ever-increasing prominence of religious voices within the public domain. The comments made by Minister Abbott promoted the idea that ‘choice’, the highly prized liberal value, was being deployed in immoral ways, with his assertion that ‘100,000 abortions’ were *chosen* by women (Solinger 2001; Johnson 2003). As Albury (2007) observes, Abbott invoked values of ‘choice’ alongside that of ‘individual responsibility’ in a strategy that she argues drew upon a ‘politics of shame’ to imply that, when it came to abortion in Australia, there were simply ‘too many, too late’. His comments were viewed as one of the prime instigators of what was regularly referred to as ‘the abortion debate’ in subsequent widespread coverage in newsprint media (Gratton and Wroe 2004). Abbott claimed that he did not intend to be ‘divisive’ but rather to clarify “how many (abortions) we have and the circumstances under which we have them” (Gratton and Wroe

2004, p.1). Indeed, the 100,000 number he referred to was widely disputed and a subsequent government report clearly pointed to the lack of reliable data on abortion in Australia (Pratt *et al.* 2005). As Albury has argued, the power of Health Minister Abbott's statement lay more in its social meaning than its statistical accuracy (2007, p.8). As Albury points out, estimates of the abortion rate in Australia have varied little since the 1970s. Despite this, the context was such that his comments were the beginning of a period of intense focus on abortion which intersected at times with debates surrounding access to infertility treatment for single and lesbian women. The context was framed as a 'fertility crisis' attributed to individual women's choices to delay childbearing, Abbott's suggestion about 'too many' abortions and his question as to the *circumstances* of these abortions led to a debate that focused in on distinctions between acceptable and unacceptable kinds of abortions. Very quickly so-called 'late'<sup>61</sup> abortions came to stand in for the unacceptable kind. The idea that women were increasingly deploying 'choice' in what was presented to be selfish, highly individualised and self-defined ways, whilst consistent with dominant neo-liberal market philosophy, clashed with the morally conservative notion of the family strongly favoured by the Howard government and founded in the traditional liberal philosophical tradition. In the subsequent media coverage the 'problem' with abortion was often framed as being one of 'deserving' or 'good' versus 'bad' choices. Underlying these discourses lay notions of the 'good' and 'bad' women who, just like the women in Cannold's book, were judged in relation to 'good' and 'bad' motherhood. Women who were perceived to have chosen abortion for so-called selfish reasons (recall Cannold's example of the female athlete) were judged as more 'immoral'. Letters pages in major newspapers such as *The Sydney Morning Herald* carried headlines such as "Economic abortions put lifestyle ahead of life". Here the focus was on the same 'type' of women for whom Naomi Wolf found abortion morally

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<sup>61</sup> The term 'late' abortion has been used to refer to abortions that take place at varying stages of gestation, usually beyond the first trimester of pregnancy. Its use as a term is often deployed as a way of denoting the 'line' between so-called acceptable abortions and unacceptable abortions. See Albury, R. (2007). *Too many, too late and the adoption alternative: shame and recent abortion debates*. Public Policy Network, Adelaide.

unacceptable, those who ‘should know better’ and have no good reason to reject motherhood. One letter-writer in the Sydney daily, the *Sydney Morning Herald*, stated:

If mature-aged women are ending their pregnancies because of the pressures of career and economic security and gain, then perhaps instead of indicating that abortion is morally justified, it indicates that our individualistic and materialistic culture has come to a point where lifestyle choice is more important than life (*Sydney Morning Herald*, Aug 7, 2004, p.36)

The idea of ‘lifestyle choice’ as an unacceptable reason to reject (or delay) motherhood was also picked up in the debates concerning lesbian and single women’s access to ART, an issue explored in more detail in the following chapter. In the year after Abbott’s 2004 comments, newspaper media coverage of abortion debates in Australia doubled and remained at this level throughout 2006 and into 2007.<sup>62</sup> I will now go on to explore some of the surrounding discourses informing these debates.

### 5.3.2 Pronatalism and the fertility ‘crisis’ in Australia

The intense media coverage that quickly ensued over particular aspects of abortion (such as so-called ‘late’ abortions) can be viewed alongside a strong ‘pro-natal’ theme running throughout a number of public debates, certain policy initiatives and broader sociocultural shifts evident in Australia at the time. In the years leading up to the wave of renewed attention on abortion, commentators had begun to focus on the increasing numbers of women who were either delaying motherhood or opting out of it altogether. As far back as 2000, articles started to appear in the mainstream media with headlines such as “The childless women” (McKinnon 2000) and “Mothers now wait to hit 30” (Hancock 2000). In many of these articles the downward trend in the average number of children being born to women in Australia was said to reflect a generation of women who ‘wanted it all’ and, as a

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<sup>62</sup> Results taken from a search of ANZ Newsstand (proquest) online database with the term ‘abortion’ restricted to Australian publications..

result, were less likely to choose to devote their early adult years to childrearing. The reality, of course, was much more complex and whilst feminists drew attention to the complexities of women's 'choices', including the failure of so-called family-friendly policies to adequately meet the needs of women to combine childbearing and career (Solinger 2001; Curtin 2003; Summers 2003; Cannold 2005b; Solinger 2005), this did little to quell the concern being articulated regarding the falling birth rate. The build-up of a pro-natalist discourse and anxiety surrounding such women (whose choices were regularly attributed to a version of selfishness stemming from the influence of second-wave feminism) was such that, by the time Tony Abbott made his comments in early 2004, many major newspapers had covered the 'social problem' of decreasing fertility with a distinct focus on women as the cause. Examples included:

"Costly wait for Women – Society's burden of IVF" (Skatssoon, *The Daily Telegraph*, Dec 3, 2002, p.16)

"My Childless Career" (Manne, *The Sydney Morning Herald*, Jun 1, 2002b, p.8)

"When the right time turns out to be too late" (Horin, *The Sydney Morning Herald*, Feb 26, 2000, p.45)

The spectre of the 'selfish' modern women choosing to side-step maternity is, however, a recurring theme, despite media coverage pointing to the influence of second-wave feminism and women's increased independence as central causal factors. Indeed, as Linders revealed in her research on abortion in the late nineteenth century, women seeking abortion were also seen as choosing to avoid motherhood, and variously constructed as "self-indulgent", desiring "extravagance" and a "fashionable life" (1998, p, 499). Yet this argument, which placed the blame for the perceived fertility crisis upon individual women, whilst getting a lot of media attention, was not able to suitably frame the debate in ways that would gain widespread support.

Pronatalism increasingly became the focus of public and political discourse. Concern about Australia's declining fertility rate, often expressed as a 'baby drought' (Macklin 2000), led one commentator to conclude that "... Australia [is] in serious danger of becoming a child-free society" (Macklin 2000, p.13). Australia has experienced numerous 'waves' of pronatalism since colonisation. This most recent wave, however, differed in that a central feature was the use of gender equity arguments and 'women's choice', ostensibly feminist discourses, to frame public policy debates (Heard 2006). The problem of achieving 'work-life balance' became a key phrase to explain the incompatibility between employment and maternity in academic and public policy documents.<sup>63</sup> This re-emergence of pronatalism occurred throughout the four consecutive terms of the conservative Howard government and continued on in a modified form when the Labor government came into power in 2007. Heard observed that:

[t]he Government has embraced this language, but has failed to implement the policies implied by the gender equity perspective. Instead, policies more palatable to the conservative constituents have been pursued. (2006, p.12)

She argues that whilst previous pro-natalist discourses based upon women's 'duty' to reproduce did not have public support at the time<sup>64</sup> the move toward gender equity rhetoric which emphasised the need to support women in "their desire to combine both work and family goals" (Heard 2006, p.14) was far more acceptable. The key achievement of such an approach, argues Heard, "has been to present a pro-natalist argument that doesn't offend the feminist ideal of full participation for women in the public sphere" (2006, p.14). The

<sup>63</sup> See, for instance, Pocock, B. (2003). *The Work/Life Collision*, The Federation Press.; Smithson, J. and E. H. Stokoe (2005). "Discourses of Work–Life Balance: Negotiating 'Genderblind' Terms in Organizations." *Gender, Work & Organization* 12(2), pp.147-168, Brennan, D. (2007). "Babies, Budgets, and Birthrates: Work/Family Policy in Australia 1996–2006." *Social Politics: International Studies in Gender, State & Society* 14(1), pp.31-57.

<sup>64</sup> She cites the negative reaction to comments made by then Victorian Premier Jeff Kennetts in 1999 at a Melbourne girls school stating that "our women are not producing enough offspring", Heard, G. (2006). "Pronatalism under [John] Howard." *People and Place* 14(3), pp.12-25.

language of ‘choice’ was consistently utilised to frame the objectives of the new pro-natalist influenced policy agenda. Whilst the language was different, the underlying assumptions behind such an approach share some similarities with the approach taken in late nineteenth-century in Sweden with their focus on the “exhausted mother” (Linders, 1998). In that instance, the argument relied upon the idea that “the dominant motive for abortion was severe economic distress rather than ‘selfishness’ ... given a real choice, women would choose motherhood over abortion” (Linders 1998, p.500). The idea was that women’s ‘real’ desires were being stifled by aspects of public life and that some of these could be successfully remedied by changes in public policy, most particularly, those relating to the workplace.

Some feminist commentators have observed that the ‘work-life’ balance rhetoric has translated to little more than a reinstatement of traditional hierarchical norms within heterosexual families, albeit under the guise of choice and flexibility (Hill 2007; McRobbie 2009). Whilst the dominant media coverage in Australia focused predominantly upon the figure of the ‘modern working woman’ making a ‘lifestyle choice’ to avoid having children, the idea that this was less a choice and more a result of circumstance began to form a significant part of the public discourse (Horin 2000; Manne 2002; Skatssoon 2002). In her 2005 book, *What, no baby? Why women are losing the freedom to mother and how they can get it back*, Leslie Cannold suggests that an ever-increasing number of women in Australia are childless in their late-thirties and early-forties due to a combination of factors, many of which are predominantly outside the control of individual women. She argues that increases in the number of ‘circumstantially childless’ best explains the decreasing fertility rates in the developed world, including Australia, where she posits that mothers are fast becoming an “endangered species” (Cannold, 2005b p.11). For Cannold, involuntary childlessness is a matter of urgency primarily because of the costs to women who she argues are being restricted in their ability to exercise the “contemporary woman’s rite of passage to



adulthood” (2005b, p, 18), that is, the decision whether or not to mother. She highlights the need for “enabling social policies: policies that provide women of reproductive age with the attitudinal and practical support they need to have the children they want” (Cannold 2005b, p.15). Whilst Cannold acknowledges that many women are voluntarily childless, she suggests that the risk to women of experiencing unplanned childlessness has not been given adequate attention. She argues that feminists have been successful in achieving attitude change in relation to the stigma of voluntary childlessness for women and that now they should focus their attention on the needs of the involuntarily childless. It could be argued, however, that the dominance of a narrow definition of family in so-called ‘family friendly’ policies combined with the persistence of gendered beliefs about women and reproduction are such that the stigma of childlessness (voluntary or otherwise) and other negative social consequences are as bad, if not worse, than ever.

Overall, the policy approaches introduced in Australia and framed as being family-friendly, were aimed at resolving the conflict for women between work and family responsibilities that was assumed to be causing the decreasing fertility rate. Two key components of this discourse need to be noted: firstly, the idea that there existed a fertility crisis and, secondly, that this crisis would be averted if women could be supported to have the children that they desired (assumed to be more than they were currently having). I will go on to discuss these two ideas in a moment. Firstly, I wish to examine how the fertility ‘crisis’ was taken up in public discourse.

### 5.3.3 Families, fertility and public policy

A raft of ‘family-friendly’ policies have been introduced during and since the years of the Howard government, beginning with the First Child Tax Refund or ‘Baby Bonus’ announced in 2002 which pays a lump sum to women on the birth of a child, followed in 2004 by increases to Family Tax Benefit A and B, a revised Baby Bonus scheme in the form of a

lump sum payment and, more recently, in January 2011, the introduction of a paid maternity leave scheme. As some have observed, however, most of the policies functioned to encourage a modified version of the traditional male breadwinner model and actively disadvantaged single parents and those couples who shared income earning and parenting responsibilities (Hill 2007). The Family Tax Benefit (FTB) scheme is divided into two payments. The first, Family Tax Benefit A, is a means-tested payment based on household income aimed at assisting with the costs of raising children. The second, Family Tax Benefit B, is aimed at households with one main income earner and is calculated on the basis of the income of the 'secondary' earner who holds the main child rearing responsibilities. Within this scheme "families in which both parents contributed more equally to household income received less financial support" (Hill 2007, p.235). All of the above payments and schemes were introduced with the rationale of encouraging more 'choice' for families, yet they rewarded a narrow range of choices, those that fit most closely with the notion of the traditional family. Those women seen to be making poor choices did not benefit equally from the policies. Amidst media reports of the Baby Bonus being spent on 'plasma TV's', for instance, the government revised the lump sum payment in 2007, replacing it with an instalment payment system for certain categories of mothers including teenage mothers, many Indigenous mothers and other groups of women assessed to be 'at risk' (Milne 2006; Staley 2008). Since the introduction by the Labor government in 2011 of a means-tested<sup>65</sup> paid parental leave scheme providing an 18-week payment based upon the minimum wage for all employed primary carers after the birth of a child, the old Baby Bonus is now exclusively a means-tested instalment payment targeted at those who are not in paid employment.

Some commentators have observed that 'family-friendly' pro-natalist arguments were successfully utilised by the feminist movement in their ongoing campaign for a paid

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<sup>65</sup> The cut-off is currently \$150,000 and is assessed on individual income

maternity leave scheme (Heard, 2006). Whilst not directly arguing that such a scheme would impact upon fertility rates, proponents of paid maternity leave emphasised the potential of ‘family-friendly workplace policies’ to “remove some of the barriers to the decision to have a child” (Australian Human Rights Commission 2002, p.93). The ‘family’ came to occupy an increasingly central place within broader political discourses surrounding social policy during this period. An increasingly conservative, moralist rhetoric utilising ‘family values’ as its central theme, came to inform much of the public debate and, for a period of time, became the dominant lens through which debate and discussion focusing on a range of social policy issues took place. The former Prime Minister John Howard presented many of his views on abortion and same sex marriage, for instance, with reference to his commitment to, and faith in, ‘family values’ (Johnson 2003). In addition, the public debate over lesbian women’s access to infertility treatment, which was waged mainly in the media beginning in 2000 and continuing to varying degrees until 2007, saw Prime Minister Howard declare his personal opposition to the practice, once again invoking his notion of the ‘family’ as an institution where children require both a mother and a father (Johnson 2003; see Chapter 6).

We witnessed the increased prevalence of ‘family values’ as the preferred rhetoric of the conservative Howard government when dealing with many areas of social policy, particularly those concerning women’s rights. Jennifer Curtin (2003), in her paper examining debates surrounding the introduction of paid maternity leave in Australia, clearly demonstrates the existence of a range of discourses within the public policy realm that reinforce restrictive versions of the ‘citizen mother’. Indeed, ‘the family’ has become a regular and popular rhetorical tool employed by the government in relation to a number of policy and legislative initiatives. It was used, for instance, to justify the conservative Howard government’s amendments to Australia’s marriage legislation in 2004, which redefined marriage as between a man and a woman rather than between two people, thereby excluding same sex couples. Prime Minister Howard was quoted in the media at the time stating that

changes in the *Marriage Act 1961*,<sup>66</sup> are “not an expression of discrimination – it’s just an expression that marriage as we understand it is one of the bedrock institutions of our society” (Fitsimons 2003, p.13; emphasis in original). He went on to state in the same article, “[y]ou’re talking here about the survival of the species”. His comments drew upon the (by then, substantial) public discussion regarding Australia’s birth rate at the same time as reinforcing a conservative understanding of the family and women’s role within it. By invoking seemingly dire consequences, ‘the survival of the species’, his comments also demonstrated the moral imperative that underlies public policy initiatives in this area. Increasingly, mainstream political discourses came to include moral undertones in which the construction of a particular version of the Australian family featured prominently. One striking example of this was the formation of the religious based ‘Family First’ political party in 2001 that eventually went on to win a seat in parliament in the 2004 federal election as a result of votes directed to the party arising from an agreement with the conservative Coalition government to direct its second preferences their way.<sup>67</sup>

#### 5.3.4 Populate or perish: race, fertility and ‘family values’

There was another aspect to this renewed focus on the family. The need for women to be having more children was also interwoven into a nationalistic discourse that was becoming more and more the focus of the Howard government. In a well-publicised speech at the time, the federal treasurer, Peter Costello, promoted the Baby Bonus and increased family size when he encouraged women to “have one for themselves, one for their husband and one for the country” (McKew 2004). It was increasingly clear, however, that this call to reproduce

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<sup>66</sup> The new provisions in the Act, Section 5 and Section 88EA essentially, define marriage as being restricted to unions that take place between a man and a woman. It goes one step further to prevent the legal recognition in Australia of marriages between same sex partners that have been officiated in a country outside of Australia.

<sup>67</sup> Australia has a preferential voting system. Candidates are listed on the ballot form and voters must number them according to preference. Once total votes are counted the two candidates with the most votes are then allocated the preferences of other candidates that did not receive enough votes to be counted in the top two. In this way, voters whose first preference candidate is unsuccessful in coming first or second will have their full vote redistributed according to their indicated preference in a descending order. This will continue under a majority candidate emerges from the tally.

and to ensure the ‘survival of the species’ did not go out to all women. The reforms made to the Baby Bonus scheme based on the fear that it would encourage poor teenage girls to ‘get pregnant’ are but one example of this (Grattan 2004b; Staley 2008). As had been the case with the Prime Minister’s comments on same-sex marriage rights, implicit in this discourse and reinforced by a range of policies was the message that some women were excluded from the image of the ‘ideal’ woman upon which the traditional family relied.

White, middle-class, educated women and their reproductive choices were clearly the focus of both the media coverage of the fertility ‘crisis’ and subsequent public policy initiatives focusing on the ‘family’. Indeed, such women were often characterised as participating in a ‘birth strike’ (Dever 2005). Dever notes that this focus on the failure of ‘nice’ (middle-class, white, educated) women to reproduce drew upon the historical ideal of white women as “mothers of the nation” (2005, p.45). At the same time there was growing evidence of what many commentators referred to as a resurgence of a ‘white Australia’ mentality epitomised by increased attention being paid to the ‘problem’ of displaced people seeking asylum arriving by boat into Australia (Jupp 2005; Tavan 2005; Baird 2006b). So whilst a range of policy measures were being implemented with the express aim of addressing the fertility ‘crisis’, the government was actively allocating more resources toward restricting any increase in population that might result from successful settlement of those seeking asylum in Australia. At the same time, the possibilities for lesbian women reproducing and therefore contributing toward the resolution of the so-called fertility crisis were restricted by government measures which prevented lesbian and single women from accessing infertility treatment. Citing Iyer, Dever refers to this as the “politics of ‘stratified reproduction’ whereby some people are empowered to reproduce and others are not” (2005, p.58). Certainly the overt pressure for particular women to reproduce is a clear aspect of the history of the ‘populate or perish’ discourse in Australia. The underlying discourse about who constitutes the ‘desirable’ mother has informed a range of previous public policies, including

payments made to women who had children. As far back as 1912 the Commonwealth Maternity Allowances Act was introduced and paid to all new mothers, once again to encourage motherhood. However, it contained the following restriction: “[w]omen who were ‘Asiatics’ or ‘Aboriginal natives of Australia, Papau or the islands of the Pacific’ would not be paid the allowance” (Grimshaw *et al.* 1994, p.206). If we consider this measure alongside the practice of forced removal of Aboriginal children from their families and Indigenous women’s experiences of forced abortions and sterilisations (Moreton-Robinson 2000), we can see that the impetus behind ‘populate or perish’ has always been tempered by racialised images of the ‘desirable’ mother.

Whilst the majority of modern day public policies may not contain such explicit measures toward producing the ‘desirable’ mother, public discourses, especially within the media, have the ability to create preferred meanings in increasingly complex ways that go on to inform public opinion and sentiment. Importantly, the discursive landscape of media debates comes to inform the ‘taken for granted’ or the ‘norm’ against which difference is gauged. In this way, terms like the ‘family’ come to be imbedded within the meanings reproduced in these forums without explicitly invoking the identities upon which they rely. Dever suggests that “contemporary Australian campaigns around family policy require careful interrogation of historically sedimented and hierarchically organised concepts such as ‘motherhood’” (2005, p.57).

#### **5.4 Women and the changing social and political context in Australia**

Marion Maddox argues that the policy shifts occurring within the Howard government era reflect a view of women in the twenty-first century that relegates them to “... either married motherhood or celibate spinsterhood” (2005, p.90). It is clear that the concern over the number of abortions, for instance, sits within an interconnected web of discourses that rely

upon persistent common themes. These include a commitment to a restricted notion of the family, the idea of the ‘desirable’ mother and, most importantly, the need to maintain the borders of desirable motherhood by actively restricting reproduction amongst ‘undesirable’ women. As I have argued throughout this thesis one of the outcomes of many of the debates or contestations surrounding abortion and ART has been to cultivate and reinforce the concept of the ‘desirable mother’ who meets particular criteria at the same time as essentialising this identity within ‘natural’ womanhood. In media debates this discourse often invites the reader to ask themselves ‘who are the women *we*, as a society, want/need to mother?’ and perhaps more tellingly, ‘who are those that *should not* mother?’. The implicit assumption in many of these debates is that there exists an objective, almost instinctive set of criteria that come together to produce the ideal reproductive woman against which all others can be evaluated. As the next chapter will explore in more detail, the surge in pronatalism and ‘family-friendly’ policies took place at the same time that legislation allowing the restriction of single and lesbian women’s access to infertility treatment was being debated. The ‘problem’, therefore, was defined as one associated with the falling fertility rate of particular groups of women, that of white, heterosexual female Australian citizens *failing* to reproduce.

In her bleak assessment of the status of women in twenty-first-century Australia, *The End of Equality*, Anne Summers argues that the goal of equality for women has been replaced with a new doctrine, one she calls “... the breeding creed” (2003, p.7). The breeding creed, she argues, “is a powerful new ideology that defines women first and foremost as mothers” (Summers, 2003, p.7). Yet, as she rightfully points out, this ideology or doctrine has a very familiar ring to it:

[t]his ideology is new in the sense that it is being articulated as a social goal in this country for the first time in almost one hundred years (it used to be called ‘populate or perish’), but it is

also, in many ways, a restatement of a very traditional view of women's role and women's possibilities (Summers 2003, pp.7-8)

At the same time as we have seen this shift toward the 'breeding creed', there have been critical changes within what was once understood as the 'women's sector' in Australia. We have witnessed a systematic dismantling of many of the significant gains that the women's movement had made toward achieving women's full and equal participation in society. The introduction of 'gender mainstreaming' as an approach underlying new policy initiatives for addressing gender equity during the mid-1990s saw many of the state and federal women's policy units disbanded or merged into broader departmental structures with the stated aim of integrating gender needs into overall policy areas or programs. 'Gender mainstreaming' has increasingly become the favoured approach for a new global expression of feminist goals and has been adopted as official policy in the United Kingdom and the European Union, one of its key goals being the desire to see gender issues addressed throughout all social/public policy initiatives. Yet as a number of feminist commentators have pointed out, in practice the result is often 'attention being removed from gender equality and women's empowerment altogether' (Alston 2006, p.124). McRobbie suggests that within a neo-liberal global 'post-feminist' world, gender mainstreaming represents "part of the prevailing logic of feminism undone" (McRobbie 2009). In the public sector we have seen the absorption of Office for the Status of Women (OSW) government departments in many states. In addition to this we saw the de-funding of one of the longest running not-for-profit women's advocacy groups, the Women's Electoral Lobby (WEL).

At the same time, anti-choice proponents gained new ground in Australia throughout this period capitalising upon both the discourse surrounding the fertility 'crisis' and shifting their own discourse, especially within the media, toward one incorporating the language of women's health. This occurred in the context of the move away from the 'moral' as the



defining discourse in abortion politics, toward ‘health’ as the overarching framework, as detailed in the previous chapter. Alongside the re-emergence of the ‘breeding creed’ for women, and changes in the nature and influence of the women’s sector more broadly, the anti-choice lobby was beginning to chart new territory; they moved their focus from overt concern for the (murdered) foetus to concern for the health of women via the image of the post-abortion grief victim.

## **5.5 Contextualising media discourse: implications for abortion and ART debate in Australia**

In the media debates surrounding abortion and ART, facts rarely ‘speak for themselves’, as is often suggested. As this chapter has highlighted, the socio-cultural context has a major role to play in informing the *discursive opportunity structure* from within which media debates will be played out. Meanings are made possible as the result of a complex interplay of both the *frames* being utilised within the public discourse and the positioning of the various claimsmakers, thereby influencing the *standing* of particular argument within the debate. If we consider the fertility crisis and the concomitant pro-natal discourse around the family as the dominant frames at the time, comments made by a health minister, occupying a position of considerable standing within public discourse, about a purported abortion ‘epidemic’ of 100,000 per year, will lead to policy responses that fit within these *frames*. There are many examples of such policy initiatives, including the ‘family-friendly’ policies mentioned earlier in the chapter. In line with the tenor of such approaches, the government announced the funding and establishment of a national pregnancy counselling service in 2007 aimed at ‘informing’ women experiencing unplanned pregnancies. The health minister described the aim of the service, which is provided in part by a Catholic-based organisation,

to reduce the number of abortions. Initially the service mandate specifically prevented counsellors providing referrals to abortion services.<sup>68</sup>

Ripper (2001) and Albury (2007) have also highlighted the ways that stigma and shame in recent abortion debates in Australia functioned to both silence aborting women and to discredit those involved in providing abortion services, including academics, medical practitioners and other service providers. In this way the *standing* of aborting women and abortion providers as *claimsmakers* within the debates was reduced.

When it comes to social problems there are almost always competing “problem definitions”, as Curtin (2003, p.6) describes it. Bacchi (2009) suggests that when analysing policy initiatives developed to address social problems we need to first consider what the problem is represented to be. This is often related to the social context. Importantly, Bacchi’s (2009) approach highlights the role of public policy and governments in producing or *constituting* policy problems. Indeed, an issue may become framed as a problem within various dominant discourses before there is any public sense of its existence or even in direct contradiction to the experiences of individuals and the community. In this way a set of concerns, beliefs and ‘facts’ can be created upon which policy platforms and programs are then designed and seen to respond. There are often points of contradiction or disjunction, however, and it is at these points that one can begin to examine more closely the points of tension in the current construction of the ‘women equals mother’ discourse.

As suggested earlier, two main problems circulated within the various media debates and policy initiatives, that is, the idea of a ‘fertility crisis’ and, connected to this, concern about women failing to make appropriate reproductive ‘choices’. At the same time as the ‘fertility

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<sup>68</sup> In June 2010 after a ‘revamp’ of the National Pregnancy Support Helpline by the Rudd Labor government, the service expanded its services to include the provision of referrals to abortion clinics Davis, M. (2010). "Rudd helpline offers abortion advice" *The Sydney Morning Herald*: 24 Feb. 1.

crisis' problem circulated within mainstream media discourses along with the focus on how to facilitate women's (never, or rarely, men's) work-life balance, we saw attempts at restricting access to ART for lesbian and single women and the incarceration of the children of asylum seekers in detention centres across the country.

In the following chapter I draw attention to the kind of bodies and lives that are given meaning or recognised in discourses surrounding access to ART in the media. Through an examination of two areas of debate, lesbian and single women's access to ART in the Australian newsprint media, I argue that, as is the case with abortion discourse, we find social and symbolic *recognition* of a narrow range of 'selves'. The mother or the maternal body remains the only kind of body or female 'self' accommodated within these debates.

## Chapter 6     Lesbian and single women's access to infertility treatment: media debates in Australia

### 6.1 Introduction

This chapter examines the discourses contained within selected media debates focusing on lesbian and single women's access to ART in Australia throughout the period 2000-2007. Despite occurring at the same time as the abortion debate taking place within the media described in the previous chapter, rarely were the two issues considered together. Media discussion and commentary focused on each issue separately. In this chapter I argue that there are many similarities between the way recent abortion debates and those focusing on lesbian and single women's access to ART construct women and maternity. Similar to the abortion discourses examined in Chapter Four, the debates I examine here invoke a continuum against which women's reproductive choices are increasingly judged, with those women who are perceived as deploying 'choice' in 'immoral' ways attracting harsher, more punitive judgement. Likewise, the moral appropriateness of lesbian and single women's decisions regarding the use of ART are judged according to how closely they adhere to a restricted version of motherhood and maternity. Similar themes appear in the debates concerning lesbian and single women's access to ART as those that occur in abortion debates. Key features include constructing the 'problem' as one characterised by the 'competing' rights of children against women, prioritising medical authority, positioning morality as the defining lens and protecting the family. This chapter draws attention to these similarities, in particular the reliance upon notions of 'deserving' or 'undeserving' women and 'good' and 'bad' mothers. A prescriptive 'ideal' of female behaviour reduced to essentialised maternity is demonstrated in these discourses. Often this is through a narrative of desperateness to achieve maternity at any cost as an expression of 'natural' female desire. Just as those advocating a moral motherhood approach to women's abortion decisions have

argued, debates surrounding single and lesbian women's access to ART are often framed in ways that emphasise an 'instinctive' desire for, and valuing of, maternity. Within these debates maternal desire is often depicted 'natural' and the same for all women.

I noted earlier (see p 15) some of the limitations of the term 'single', including its privileging of heterosexual monogamous sexual relationships. It is for this reason, however, that I use the term in the thesis and this chapter in particular. The taken-for-granted meaning/s of the term form part of the reason it has such power within the discourses examined here. 'Single women' within the media discourses I consider almost exclusively refer to heterosexual women who are at times positioned similarly to lesbian women (whether single or coupled) and at other times quite deliberately set apart on the basis of the punitive 'loss' they suffer as a result of their lack of access to the benefits of heterosexual coupledness which is suffered through 'no fault of their own'. In contrast to this, lesbian women are routinely constructed as 'choosing' a 'lifestyle' that inherently excludes them from access to the privileges of heterosexuality, including motherhood.

This chapter draws upon two sets of data. The first is newsprint media coverage of a legal battle begun in 2000 by a single woman in the Australian state of Victoria over access to ART treatment. The second connected data set is newsprint media coverage of debates surrounding lesbian women's access to ART treatment that began shortly after the coverage of the above case. Utilising the concepts of *frames*, *actors*, *standing* and *discursive opportunity structure* that I introduced in Chapter Five, the discourses contained within the two sets of data is critically analysed drawing particular attention to how meaning of what it is to be a 'woman' is constructed within these debates.

Maternal subjectivity appears particularly 'fixed' in the debates surrounding access to ART. This is more so the case when access by groups traditionally situated as 'outside' the

traditional family are considered, as is the case with lesbian and single women. The utilisation of ART by single (and especially) lesbian women is routinely cast as a threat to various social norms and institutions, key among these being the 'family'. As a result, access to ART for married heterosexual couples rarely featured as a topic for debate within the media. When it did occur within the media coverage I examined, it often served as the 'norm' against which to critique and contrast single and lesbian women's use of ART.

In Chapter Two I detailed some of the debates that have taken place among feminists regarding the potential for infertility treatment to be utilised by women to enhance their own goals, including feminist defined ones. Many feminists suggest that the use of ART, particularly in assisting lesbian women in their desire to reproduce, ostensibly involved the most challenge for previous (patriarchal/heteronormative) constructions of the maternal and therefore has the potential to subvert dominant norms surrounding maternity and maternal subjectivity (Farquhar 1996; Michaels 1996; Sourbut 1997; Mamo 2007). Lesbian maternity, they argue, undermines the inherent logic within the dichotomous male/female reproductive narrative and, as such, could be central to the achievement of a range of feminist goals. As Michaels suggests, "[b]y belonging to Other Mothers, mothers who need have no relation to Him within the terms of the heterosexual contract, the resulting child fractures its binary logic" (1996, p.58).

Michaels (1996) is careful to point out that highlighting such possibilities is to look for the 'utopian moments' within a set of practices that can be otherwise enlisted in the maintenance of gendered power relations. Lesbian desire has historically been constructed as being in opposition to so-called 'natural' feminine desire which necessitates heterosexuality and maternity. Essentialist notions of femininity such as these are both challenged and reinforced by lesbian maternal experience and desire. Whilst lesbian women choosing reproduction outside heterosexual relationships can prove disruptive to the gendered hierarchy of the

male-headed traditional family, their desire to do so is often depicted as resulting from an ‘instinctual’ female desire. The political implications of lesbian maternity are often erased and replaced with a version of the dichotomous male/female discourses emphasising women’s essential ‘otherness’ represented by ‘natural’ maternity.

My aim here is to examine in what contexts these restrictive versions of maternal subjectivity come to be invoked and to look for ‘gaps’ and inconsistencies in the discourses involved in producing these subjectivities. I do this with the broader aim in mind of exploring how feminism can utilise the political discourses of reproductive practices such as ART and abortion to move beyond the current parameters of maternal subjectivity.

As I argued in the previous chapter, public discourses and, in particular, those which circulate through the mass media can often provide a distillation of the salient (political) components of an issue. Conversely, they often point to important absences and gaps within the debates – areas of vulnerability and silences. It is into these silences, ‘gaps’ and, of course, contradictions that I wish to delve. It is as important to observe what is routinely left out of media debates surrounding reproduction as it is to examine what we find included. As Laura Woliver suggests:

[t]he rhetoric and public discourses surrounding reproductive politics have changed. Missing topics in reproductive discourse ... are just as telling as dominant frames, symbols, tropes, metaphors, and slogans (2002, p.22)

Throughout this chapter I will examine science *as a discourse* and consider the role that science and scientific truth plays within these media debates, in particular, how this is related to both the *standing* of the various *actors* involved in the debates and also the *frames* that are most often utilised. In doing so, I wish to foreground what Seguin (2001) calls the

‘construction at work’ in scientific discourses, suggesting that science does not and cannot present us with the immutable ‘facts of the matter’. Despite this, media debates surrounding infertility treatments often present the issue as based upon ‘scientific facts’ that are invariably presented in such a way as to ‘speak for themselves’. In such cases, repeated references to the scientific ‘facts’ can function to preclude further discussion or critique. The need for the public to know the facts is central to many of the arguments presented in the media. The facts, however, take on a different meaning depending upon which woman they are being applied to. The ‘facts’ of a partnered, heterosexual woman requiring infertility treatment, for instance are characterised as being that of a ‘scientific miracle’, whereas the ‘facts’ related to a lesbian couple’s desire to utilise infertility treatment is typically likened to a ‘brave new world’.

#### 6.1.1 Newsprint media coverage of reproductive technologies 2000-2007

My examination of media coverage in this chapter is based on a selective rather than comprehensive approach to the collection of articles published at the time. I gathered articles that represented key themes in the debate and which provide a ‘snap shot’ of what was contained within the broader media discussion at the time. Certainly it would be interesting and useful for a detailed systematic media analysis of these particular debates to be carried out but this is not my aim. I collected articles from various state and nationally circulated newspapers beginning with the McBain/Meldrum case in 2000, after which I have collected articles reflecting the sporadic return of media attention to the topic until 2007. I have restricted my analysis to newspaper coverage. I chose print media because it represented the bulk of the coverage and presented itself most contemporaneously to the events. It also enabled an ease of analysis perhaps not afforded me had I considered other media products.<sup>69</sup>

Before I go into detail in examining the particular media debates surrounding the

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<sup>69</sup> Expanding the analysis to include television and magazine coverage, for instance, would have required a broader media analysis approach to accommodate the various differences that these media forms bring to the depiction of an issue within public discourses.



McBain/Meldrum case and subsequently, single and lesbian women's access to ART, I wish to provide, by way of background, some detail on the scope of the media coverage and the data collected.

This chapter draws upon newspaper media coverage in Australia throughout the period 2000-2007. A search was made of the online database ANZ Newsstand (Proquest) which contains the full text of major newspapers in Australia and New Zealand. I have restricted my focus to only those articles appearing in Australian newspapers. Throughout this period, both abortion and reproductive technologies featured strongly in the media with both topics experiencing a significant increase in coverage in the years 2004-2006. This coincided with the election for a fourth term of the conservative coalition Howard government in Australia. The 2004 election saw the Howard government have majority numbers in the Senate for the first time and, as mentioned previously, this allowed legislation to be passed without the support of opposition, minority party members or independents.

Newspaper media coverage of ART and related issues such as stem cell research, donor ovum and sperm, and cloning experienced increased coverage between the years 2004 and 2006. As detailed earlier, this coincided with a considerable period of debate and agitation surrounding abortion. Between the years 2000 and 2004 newspaper articles mentioning abortion sat between 100 and 140. In the lead-up to the 2004 election and directly following on from the comments made by then Health Minister Abbott, that number quadrupled to 444 articles, leaping to 788 in the following year. Throughout the last term of the Howard government, abortion remained a constant topic of debate in the media. As Chapter Five detailed, a central theme in the coverage of the abortion debate was that of so-called 'lifestyle' abortions, depicted as those chosen by women who were seen to be 'delaying' childrearing for reasons of career or other personal reasons. The number of articles mentioning 'reproductive technology' experienced somewhat of a 'peak' in the year

following the McBain/Meldrum case, jumping from 38 articles in 2000 to 70 in 2001. By 2005, the year after the election of the final term of the Howard government, this number had increased to 266. Whilst similar themes, such as the ‘fertility crisis’ and ‘delayed childrearing’ appeared throughout the media coverage of both abortion and ART during this time, it was rare to see an overlap in coverage of the two topics. The few exceptions generally came from a feminist perspective analysing the overall approach taken by the conservative Howard government to the area of reproductive rights. Natasha Stott Despoja,<sup>70</sup> for instance, pointed out that the Howard government’s proposed cap on IVF, restriction on Medicare<sup>71</sup> funding for abortion and focus on late-term abortions were essentially about “power over women” (2005, p.18). In another article linking IVF and abortion, the author concludes that both debates represent the Howard government’s desire to use “women’s health as a bargaining chip” (Das 2005, p 19). An aspect of both debates was the issue of the level of government funding for the procedures and discussion of the basis on which restrictions should be made.

The newspaper media coverage throughout the period under review was dominated by the voices of particular *actors* who possessed considerable *standing* and utilised the preferred *frames*. Those with the most *standing* throughout these debates were members of the Howard Coalition government. Indeed, government politicians set the terms of the debate such that the vast majority of the media coverage I examined centred on responses and opinion in relation to statements made by members of the Howard Coalition government. This was followed by commentary by religious and other conservatives (including members of the Family First political party and the Australian Family Association), medical practitioners (especially those providing ‘late term’ abortion or ART services), bioethicists and a small number of articles that either took a feminist perspective or presented the ideas of feminists and feminist organisations. In the case of the latter, feminist public figures who

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<sup>70</sup> Then a member of the Senate representing the minority political party, the Australian Democrats

<sup>71</sup> Medicare is the publicly funded Australian national health scheme.

would usually have been called upon for comment were notably absent from the *playing field* of the mainstream newsprint media coverage. This was particularly the case in relation to the debates concerning access to ART for single and lesbian women. Feminist voices were restricted to a small number of *actors* with *standing* and/or those utilising the preferred *frames* of ‘family’, ‘motherhood’ and ‘rights’. Feminist voices that combined both *standing* and preferred *frames* were privileged throughout the debate. Leslie Cannold, for instance, as an ethicist who employed the ‘frame’ of motherhood in many of her arguments featured prominently as a feminist voice.

## **6.2 ART: the Australian context**

In Australia, the regulation (or governance) of access to ART, much like abortion, varies from state to state and is set largely within a medical/legal framework (Australian Reproductive Technologies Review Committee 2006). Medical, moral/ethical and more recently, economic understandings are prioritised and are central to the approach taken by each state government toward its regulation. This is in preference to social justice or feminist understandings, for instance. Some states have their own specific legal framework which describes in some detail constraints on access to and provision of infertility treatments. Others states rely on ‘case law’ to establish legal precedent and to deal with legal issues as they arise. In addition, some states also have separate government-auspiced regulatory bodies or committees to oversee the application of the relevant legislation or applicable common law rulings. Other states choose to have existing health bureaucracies administer the relevant legislation. Similar to abortion in Australia, infertility treatments have been viewed differently from other medical enterprises. As Peterson describes the regulatory context:

The practice of ART was removed from the privacy of the therapeutic relationship early on in its history and has been regulated by statutes and professional guidelines in many jurisdictions for the last few decades. (2002, p.485)

The idea that society or ‘the public’ has an overriding vested interest in regulating the practice of infertility treatment is similar to the way abortion has been framed in public discourse as a societal issue rather than a private one. That is, in both cases medical or therapeutic assessments do not occupy the same privileged position as they do in relation to other health or medical matters. The reasons cited for this special treatment in relation to ART include “genuine qualms about where this technology is headed” (Peterson 2002, p.485) and the potential social implications of extending the possibility of parenting beyond infertile heterosexual people but “also to widows, single women and lesbian women” (Peterson 2002, p.485). Infertility treatment therefore, much like abortion, invokes and is framed within legal/moral/ethical and social discourses. As a result, various discourses come together to provide the particular background to any ‘issue’ that arises with the field of ART in Australia.

Debates concerning who the appropriate recipients of infertility treatments should be are not new. Albury (1999) observes that in the early 1990s the main issue of concern was the use of donor eggs and IVF procedures by older menopausal women. Whilst the use of donor eggs is now relatively common and somewhat uncontroversial in Australia (with the notable exception of their use in surrogacy pregnancies by gay male individuals and couples),<sup>72</sup> new controversies have appeared over the years. Initially most of the debates surrounding ART centred upon concern that science was going ‘too far’ based on the perception that science was inappropriately intervening in what were seen to be ‘natural’ processes. Within these discourses, reproduction was often situated as the most basic of natural processes. More

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<sup>72</sup> See Tuazon-McCheyne, J. (2010). "Two Dads: Gay Male Parenting and its Politicisation – A Cooperative Inquiry Action Research Study." *The Australian and New Zealand Journal of Family Therapy* 31(4): 311-323.

recently the focus of debates concerning infertility treatment has centred on a number of key discourses, the two most common being the questions as to what is deemed to be in the ‘best interests of the child’<sup>73</sup> and a related notion of ‘family values’.

The public debates that I examine here occurred within the context of the socio-political focus on the family and ‘family values’ that I detailed in the previous chapter. Within these debates, the maternity of lesbian (and to a lesser extent, single heterosexual) women was routinely constructed as oppositional to so-called ‘family values’. The surrounding debate became a key site for contesting what was meant by family values in the public sphere. Carol Johnson (2004) has argued that anxiety about the potential ‘normalisation’ of homosexuality informed the public discourse at the time, with the Howard government taking every opportunity to reinforce heterosexuality as a natural state and therefore the essential private value to underpin policy in the public sphere.

### **6.3 Debating ART in the Australian media: the McBain/Meldrum case**

In 2000 Lisa Meldrum, a woman described in *The Age* newspaper as a ‘blonde, heterosexual, well-dressed 30-something potential single mother’ (Dow 2000, p.5), along with her Melbourne gynaecologist specialising in reproductive technology, Dr John McBain, began legal proceedings against the Victorian government for discrimination based on marital status. Her case contested the restrictions in place in Victoria at the time that prevented single women’s access to infertility treatments. Indeed, as I will go on to argue, rather than prevent single women *per se*, the legislative restrictions in place at the time operated in such a way as to enshrine a particular version of heterosexual coupling as the prerequisite for access to infertility treatment, that is, married or ‘de facto’ male/female couplings. In the McBain/Meldrum case the Federal Court was asked to intervene and rule as to whether the

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<sup>73</sup> See Riggs, D. (2010). *What about the children! Masculinities, sexualities and hegemony*. Cambridge, Cambridge Scholars Publishing.

state-based laws governing access to ART could apply given that they were at odds with the federal Sex Discrimination Act (SDA) which bans discrimination on the basis of marital status. The Federal Court ruled in July 2000 that the Federal Sex Discrimination Act (SDA) applied and effectively struck down the Victorian law. What followed was an intense and prolonged media debate over the subsequent years spurred on by the then Prime Minister John Howard who sought to neutralise the Federal Court decision by proposing amendments to the SDA to enable states to have authority over legislation related to ART. Mr Howard argued that his proposed amendments to the SDA were intended to uphold “the right of a child to be born into this world [with the] role model of both a mother and a father” (Kingston 2002, p.11) . John Howard eventually failed to get the necessary parliamentary support for the proposed amendments, with many parliamentarians concerned that such a move would set a precedent for increased state control over other areas previously within federal government jurisdiction. That is to say that the issue became one on states versus federal ‘rights’ rather than one about ART *per se*. Despite the federal court ruling, the situation remains today that several states have practices regulating access to reproductive technology that remain discriminatory. The Victorian legislation was eventually significantly reformed in late 2007 after the federal election of the Rudd Labor government on the basis of recommendations handed down by a Victorian state government commissioned review by the Law Reform Commission tabled in the Victorian parliament in June of that year. The reforms leave South Australia as the only remaining state that explicitly restricts access to ART to infertile couples and those carrying a genetic disorder.

Mr Howard’s comments in relation to the McBain/Meldrum case and the subsequent debate quickly gained national prominence. Headlines in *The Australian* proclaimed “Family row splits nation” (Staff Reporters 3 Aug 2000, p.1), suggesting that the issue had “unleashed a fundamental debate on the shape of the Australian family and basic civil rights” (Staff Reporters 3 Aug 2000, p.1). Discussion quickly moved beyond the facts of the Meldrum

case of a single heterosexual woman to the question of lesbian women's access to infertility treatments.

Here I will examine how the *playing field* of the ensuing debate was constrained by a restricted notion of the family, one reliant upon an essentialised relationship between women and 'the maternal'. I argue that both those opposing and those arguing in favour of single and lesbian women's access to ART relied upon the same dominant discursive *frames* to present their arguments. Some key themes appeared throughout the debates in the Australian print media. These include the pitting of the rights of children against the rights of women, the prioritising of morality as the defining discourse underlying the debate and, finally, the idea of protecting the hetero-normative family.

Another competing, yet less dominant theme, was that of the rights of doctors or medicine to define and maintain a position of authority within the debate. Here, the reliance was upon the power of scientific discourse to be the final, objective arbiter and for medical practitioners, as those with privileged access to this truth, to be the conveyers of this truth. As highlighted in the previous chapter, the *standing* of particular actors in media debates can be influenced by their willingness to engage with the dominant *frame* constructing the issue at the time. In this case, the 'morality' frame dominated discussions about lesbian maternity yet this was not the preferred frame of those speaking on behalf of the 'rights of doctors and medicine' position and, therefore, the voices of such *actors* remained peripheral and disjointed throughout the media coverage. Those who argued within the 'rights of the doctor' frame, such as the federal opposition Labor leader at the time, Kim Beazley, had minimal influence upon the debate. We can see parallels here within the abortion debate that raged alongside the ART debate in the media at the time. At one point the then president of the Australian Medical Association remarked that "[w]hat happens between a woman and her doctor is sacred" (Gratton and Wroe 2004, p.1). A similar theme appeared throughout the media

coverage of ART debates, the notion that what took place between women and doctors when it came to reproductive matters was somehow ‘mystical’, ‘other-worldly’ and almost heroic. Dr McBain was, at one point, referred to as the “IVF pioneer and feminist icon” (Evans 2001, p.10). Yet these claims for medical authority were unable to prevail against a moral discourse which presented them as partisan ‘techno-docs’ unwilling to consider the perceived ethical implications arising out of the creation of ‘unnatural’ families. I will now go on to explore each of the dominant themes in the McBain/Meldrum case and then move on to the subsequent debate on lesbian access to ART, followed by an analysis of how each of these frames remained constrained by an underlying commitment to a woman equals mother discourse.

### 6.3.1 Creating ‘ideal’ families: The ‘best interests of the child’ versus the ‘rights of women’

Early on in the media debate about the McBain/Meldrum case some commentators quickly described the ‘problem’ as one of competing rights, that is, between those of women and their (potential) children. The Federal Minister for Employment, Tony Abbott, who subsequently became Minister for Health and is currently (2012) the federal opposition leader, was quoted in a television interview as saying, “[w]hat we have here is rival claims. Surely we can’t discriminate against children in favour of women who want something that is not reasonable?” (*Meet the Press* 20 Aug 2000). The problematising of women’s desires and choices and the weighing up of these against the ‘interests of the child’ is, of course, familiar territory in abortion debates with the construction of ‘good’ and ‘bad’ abortions based upon an assessment of the motives and circumstances of the aborting woman. Unlike anti-abortion arguments, where being born is always presented as being in the ‘best interests of the child’, those opposing ART for single and lesbian women argue the opposite, the act of being born to a single or lesbian woman becomes discrimination against the child. A crucial aspect of this discourse is the underlying basis upon which claims asserting the ‘best



interests of the child’ are made. The ‘right’ of any potential child to both a ‘mother and a father’ was repeatedly reinforced yet the basis on which this claim was made, that is, that the family ‘ideal’ is represented by the so-called nuclear family consisting of a (preferably married) man and a woman, was obscured by the broader frame of ‘family values’ that had become increasingly dominant at the time. As highlighted in Chapter Five, by this time ‘family values’ had become a preferred *frame* within political contests and was regularly invoked by key *actors* across the political spectrum including the opposition Labor party, then Prime Minister John Howard and the new Family First party. In defending his planned attempt to amend the Sex Discrimination Act to allow for states to restrict access to infertility services, John Howard commented:

[t]his issue involves overwhelmingly the right of children in our society to have the reasonable expectation, other things being equal, of the affection and care of both a mother and a father  
(Hannon 2000, p.1)

Despite the fact that the children’s rights that Mr Howard referred to seemed unenforceable once a child is born, this notion of planning and controlling the formation of ‘suitable’ families was a common theme within the debates. Behind this support for, and protection of, family values ran the idea that the ‘traditional family’ was under siege or threat. One cover story run by *The Age* proclaimed “The Australian nuclear family could be extinct by the end of the century” (Crawford 2000, p.1). Louis Walker, the then chair of the Victorian Infertility Treatment Authority, suggested:

[i]f there are going to be significant changes in family formation in our community, then that should only occur after the community had had an opportunity to consider these propositions.  
(Toy and Saltau 2000, p.1)

The unquestioned assertion in this statement is the idea that the community has a legitimate investment in considering changes in family formation. An associated assumption is that such community consideration has been behind previous changes to ‘family’ formation. As many have pointed out, family formation has been diversifying for many years and ART represents a very small contribution to the overall creation of such families (Horin 2004). Despite references to families and the community, the strategies for managing such societal changes, however, remained focused entirely on women and their choices. Social anxiety about ‘fatherless’ families also informed many of the arguments which promoted family values. Women’s choices were presented as the driving force behind such threats. Bettina Arndt wrote a piece in *The Age*, describing what she saw as the risks of a world where children “have no way of getting to know their father” (2002, p.4). She describes a brave new world where men are becoming obsolete and “sperm fathers” increasingly the norm. She points out that increasingly “women can find their donors by searching through a database of men vetted for physical and psychological health and attributes” (Arndt 2002, p.4). As I will explore in the next section, the rhetoric of choice was a dominant theme within the debates yet the preferred *frame* was often one that situated choice as a reflection of selfish, frivolous, lifestyle desires of immoral woman rather than any alternative meanings such as those associated with feminist regard for freedom, control and rights.

Examples of pitting the rights of pregnant and potentially pregnant women against the ‘best interests’ of their potential child have become more commonplace across the spectrum of reproductive rights. In the United States, for instance, there have been many cases of women forcibly detained whilst pregnant in order to protect the rights of the child (Gustavsson 1991; Miller and Rock 1998). An assessment of the appropriateness of women’s desires, especially as they relate to reproductive choices, has become part of the dominant public discourse on ART and forms a significant part of the opposition to the use of such treatments by lesbian women. Single heterosexual women, whilst often implored to accept life’s lottery of being

unpartnered, are generally afforded more sympathy and perceived to have suffered a genuine loss through ‘no fault of their own’ in a way that lesbian women are not. Lesbian women are readily depicted as having ‘chosen’ a different/deviant ‘lifestyle’ and with this choice have relinquished maternal rights and identity. Single women utilising ART are more likely to be depicted as taking advantage of a ‘medical miracle’ at great cost to themselves, both financial and emotional. Lesbian women are often depicted as ‘shopping’ for babies. Unlike anti-abortion proponents who often dispute the relevance of the social, economic or other circumstances when it comes to the rights of the potential child to be born, those arguing for a restriction on access to ART often focus on these very aspects when invoking the rights or entitlements of the yet-to-be-born.

Many feminist scholars have highlighted how reproductive technologies have provided the means for some commentators to establish a subjectivity for the foetus independent of the body of pregnant women (Petchesky 1987; Mitchell 1993; Mahowald 1995). Miller and Rock argue that this has been facilitated by the use of “certain medical and cultural technologies that seem to portray the fetus as a ‘public actor’” (1998, p.287). The issue, however, according to Miller and Rock, is not how the foetus has become an actor but the *meaning* of foetal subjectivity. Different contexts will facilitate different meanings. Unlike abortion debates where the spectre of the free-floating foetus separate from the woman’s body represented the *frame* through which claims on behalf of the ‘best interests’ of the child are made, here the focus skips the foetus and shifts directly onto the child whose ‘interests’ are discursively bound to the prescriptive notion of the heterosexual family. The potential child within this discourse has a right to be ‘well born’ and discourses of morality and rational health decision-making have come together to reinforce and inform the attributes of the ‘good mother’. The good mother is discursively located within the heterosexual family. Within this discourse single and lesbian women’s desires to mother are constructed as sitting

outside the moral and health frameworks constructed for good mothers.<sup>74</sup> They are depicted as the individual, illegitimate, desires of women who by virtue of their location outside the normative heterosexual family, have relinquished their claims upon maternity and, by extension, womanhood.

### 6.3.2 'Choice' and legitimate claims to utilise the 'miracle' of fertility treatment

Within these discourses the desire to reproduce is naturalised within the bounds of heterosexual coupledness thereby sanctioning the use of ART in these hetero-normative circumstances. When maternal desire is expressed by lesbian or single women it is rendered suspect by virtue of its expression outside the bounds of heterosexual coupledness. It is most often depicted as a reflection of some other, inauthentic and, often by implication, unwomanly desire. The implication is that a 'real woman' and therefore 'real mother' is to be found only within the heterosexual family. Characterisations of single and lesbian women as merely 'baby shopping' or taking a consumerist and/or frivolous and irresponsible approach featured in much of the media coverage (Arndt 2002). In the case of single heterosexual women, much of the media coverage focused on their preferences for 'career over family' and the 'harsh realities' of delaying childbirth and avoiding traditional coupledness (Horin 2000; Manne 2002; Skatssoon 2002). In order to recuperate this authenticity in the McBain/Meldrum case and in other depictions of single heterosexual women's desires for motherhood, the woman's previous experience and desire for heterosexual relationships were frequently presented as 'evidence' to reposition such women within the bounds of 'natural' motherhood. In such framing the single woman trades her position as a selfish self-sufficient woman for a failed but 'normal' heterosexual desiring woman. Such 'recuperation' work was more difficult for lesbian women.

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<sup>74</sup> As are the desires of many other 'outsider' mothers, such as young mothers, women with disabilities, Indigenous mothers etc.

The above discussion highlights the very real dilemmas with using ‘choice’ as the predominant framework for reproductive freedoms. Where the healthy body and lifestyle is constructed as being the result of informed rational choice there is the potential for all kinds of sanctions against those whose choices do not appear rational. Assumptions made about the choice to delay or refuse motherhood and associated cultural myths about the childless strongly informed the media debates surrounding single and lesbian women’s access to ART. Often women were either pitied or judged for having chosen motherhood too late. In 2002 a book titled *Baby Hunger*, written by United States author Sylvia Hewlett, described a generation of high-achieving, educated women who found themselves childless after believing the feminist myth that they could “have it all” (Hewlett 2002). This theme was picked up in the Australian media, noting the “childless career” of increasing numbers of women (Manne 2002). Situated alongside the reported fertility crisis, women’s overinvestment in career was often criticised. Michie and Cahn (1997) make similar points and describe and find evidence of an ‘hysterical narrative’ that accompanies the focus on the so-called infertility crisis. They identify that these narratives follow the following form:

First, these narratives see as inevitable women’s desire for children; then, they transform anything deferring motherhood into a symptom of infertility; and finally, they culminate in a moment of realization that what a woman has always wanted – but now is unable to have – is a child. (Michie and Cahn, 1997, p.150)

Others have suggested this focus on ‘choice’ also implies a level of control or planning over fertility that does not reflect women’s lived experience and, indeed, may contradict the experiences of many women (Cannold 2005b; McRobbie 2009).

The language of childlessness is particularly revealing as we find more evidence of the (potentially) reproductive body being positioned as essential to the definition of womanhood. As Gillespie notes:

[I]anguage which describes the state of not having children can only express an absence of motherhood – e.g. a non-mother, childlessness, childfree – and discourses surrounding childlessness can only be explored through what it means to be a mother (1999, p.43).

The “normalising of motherhood has been perpetuated through discourses that deprecate childless women” (Morell cited in Gillespie 1999, p.44). Voluntary childlessness sits very uneasily within this debate. An assumed rejection by women of a maternal norm or indeed the anticipated subsequent regret and desperateness to have children are two of the most common understandings available within public discourse. Alongside this we have public debates about single and lesbian women’s access to reproductive technologies while we witness media and parliamentary discussion of the growing crisis related to the so-called decline in fertility.

Most of the media throughout the period under analysis perpetuated a narrative of ‘desperateness’, depicting the lengths to which lesbian and single women would go in their pursuit of maternity through the use of ART. This was often juxtaposed with the equally ‘desperate’ and difficult path that heterosexual childless couples followed, the key difference being that single and lesbian women were often constructed as having made choices that caused them their ‘infertile’ status whereas heterosexual couples were routinely constructed as infertile through no fault of their own. Discussion in the media often made the point either explicitly or implicitly, that the ‘miracle’ of IVF and related technologies should not be extended beyond those who find themselves infertile through no fault of their own. In other words, those who can be seen to be maintaining the norms of a healthy reproductive life and

body (in this case heterosexually active) are blameless and should therefore not be denied access to the health benefits of infertility treatment. In her analysis of the political debates surrounding lesbian women's access to ART during the Howard era, Carol Johnson (2003) notes the persistence of the idea that lesbian women were 'choosing' a 'lifestyle' where the impossibility of sexual conception meant that not having children was seen to be part and parcel of that choice. "The implicit assumption was that heterosexuality is the natural sexual preference; therefore homosexuality is a voluntary 'choice'" (Johnson 2003, p.52).

An example of this kind of juxtaposition appeared in *The Age* in a two-page article in their "News Extra" segment on 5 Aug 2000. The front page pictured a man and woman holding two young girls under the age of three alongside the caption "[t]o this family, IVF is a miracle. But should miracles belong to everyone?" The introductory paragraph states:

[a]ll their adult lives, Tracey and Tim Page expected to have children. But in 1995, two years after they married, they discovered Tim's sperm couldn't travel far enough to fertilise Tracey's eggs. The couple were devastated. Every decision they have made since – to submit Tracey's body and the couple's relationship to six cycles of IVF treatment and then, when it finally worked, to move out of Melbourne to the quiet of the country ... has centred on their desire to have children. (Toy and Saltau 2000, p.1)

This couple's story reiterates the vast majority of depictions of heterosexual couples within the media debate where such couples are constructed as having a 'natural' almost innate desire for children and therefore, a legitimate claim upon reproductive technology. The essential criteria is that they are heterosexual, married and willing to do whatever it takes to have a child. The problem, as the article describes it, is that now "other women want a chance at that miracle". To extend the miracle of such technology to single and lesbian women is problematic according to one member of the Infertility Treatment Authority, Father Anthony Fisher, because to do so would be to "use medical technology to plan from

the beginning to exclude a stable family unit”. Here he presumes non-heterosexual and single-mothered families to be inherently unstable. He goes on to ponder “are we honestly putting the children first? Or is it something to satisfy our adult desires?” (Toy and Saltau 2000, p.1). He suggests that “lesbian women could choose not to have children”, pointing out that “there are a lot of deep desires in life that aren’t fulfillable or fulfilled, and I think this is one”. Here we find the use of the word ‘stable’ standing in for ‘married and heterosexual’ followed by a questioning of all maternal desires that occur outside such stability. The article concludes with a quote from Lisa Meldrum that both affirms the discourse of the appropriate desire whilst challenging the notion of choice. She states, “I always thought I would have a husband and a child one day – a family”. By positioning herself as the victim of thwarted, yet normal, desires, the single woman’s desire for reproductive technologies can be subsumed into the existing discourse of the appropriate maternal desire, that which occurs within the bounds of heterosexual relationships. Lisa Meldrum wanted, and had tried unsuccessfully, to follow the path of appropriate heterosexual reproduction. Elsewhere her ‘desperateness’ and overwhelming maternal desire are highlighted; she states; “[t]hey don’t know what it’s like to want children as much as I do ... I would go to any length to have a baby. I guess I have gone to every length” (Farrant 2000, p.1). Sarah Franklin argues that ‘desperateness’ is the dominant theme within media depictions of infertility, “[d]espite the fact that desperateness need not necessarily result from infertility, it is consistently the primary frame of reference within popular representations of infertility” (1990, p.204). Franklin explains the structure of the typical narrative of desperation:

... these representations proceed first in terms of how the desperateness is accounted for, and second, how it can be resolved. It is the need to account for the desperateness, and then to resolve it, which provides the central conflict structuring the narrative movement in these accounts (1990, p.204)



Whilst the above depiction is one of the few avenues available to single women wanting to make legitimate claims upon reproductive technologies through the media, this victim discourse nevertheless competes with other discourses which locate the blame with women. For individual lesbian women and couples the situation is even more complex. Invariably, media depictions, especially those supporting increased access, once again focused on constructing similarities between normative reproductive desires of heterosexual couples and those of lesbian women. Damien Riggs (2005) suggests that this is a widespread technique that is often used by those supportive of lesbian and gay parenting to counter the ‘best interests of the child’ discourse. The aim of such an approach is often to highlight the similarities between heterosexual and lesbian and gay families and parenting, thereby proving that the ‘best interests of the child’ can be met in either setting.

On the second page of the two-page feature in *The Age* that I described previously, the focus was on a lesbian couple’s story. This article was different in tone and, rather than interviewing scientists, politicians and other ‘experts’, the article is written in the first person by ‘Jacqui’ who details her painful and unsuccessful multiple attempts to achieve a pregnancy using reproductive technologies which she accessed through regular travel interstate due to the restrictive laws in her home state of Victoria at the time. The couple’s dedication and willingness to do anything to achieve a pregnancy is emphasised throughout the article. After eighteen months, eleven interstate trips and nine failed insemination attempts, Jacqui is not dissuaded. She concludes her rather harrowing account of the pain and disruption of the previous years with the news that she and her partner, Sarah, are now moving to another clinic closer to their home but still interstate, where she will begin the treatment once again. She provides a very simple rationale for continuing her quest to conceive, stating “[I]ike many women, Sarah and I have wanted children since we were children ourselves”. Like the heterosexual couple in the article, Jacqui’s ‘desperateness’ is

emphasised along with her ‘natural’ desire to be a mother. Her actions are depicted as arising from this desperateness rather than from a rational choice or lifestyle preference, the same place as ‘many women’. As is the case with abortion debates, a continuum of ‘good’ and ‘bad’ reproductive choices is invoked that draws upon notions of essentialised, natural maternity. Similar themes appeared throughout the media coverage of the debate on lesbian women’s access to ART. Where the media coverage could be described as ‘positive’ or ‘in favour’ of increased access to ART for lesbian women, the discourses mostly relied upon establishing the similarities between the parenting styles of lesbian and heterosexual couples. Damien Riggs suggests that “practices of normalisation” are a regular feature of recent media portrayals of lesbian and gay parenting, whereby the overall aim is to represent lesbian and gay parenting as no different from heterosexual parenting (2006, p.244). Such representations unreflectively assume the “heterosexual nuclear family as the model for lesbian and gay parents” (Riggs 2006, p.242). He concludes:

[t]he unfortunate consequence of this seemingly benign account is that the politics of sexuality as framed under heteropatriarchy and heteronormativity ... are rendered invisible, and thus the normative status of heterosexuality is left unchallenged (Riggs 2006, p.235)

The vast majority of the media coverage of lesbian parenting I examined replicated many of the norms of the traditional nuclear family. This was as much the case for articles that took an overall positive or supportive stance on lesbian parenting as for those who opposed it. Central to this was the focus on the stable couple as the foundation for good parenting. As explained earlier, one of the strategies to ‘legitimate’ the claims upon motherhood made in the coverage of the McBain/Meldrum case, and the broader debate focusing on heterosexual single women, was a demonstration that these women had made prior attempts at ‘normal’ heterosexual coupledness and reproduction. Leslie Cannold, for instance, published an article in *The Courier Mail* where she argued that most women want to live and raise children with

men but that somewhere along the line things are not working out. She quotes a single, 37 year old, heterosexual woman who states: “[o]f course, the idea would have been to have met the man of my dreams and fallen in love and have it all happen the usual way ...” (Cannold 2001, p.15). Whilst media coverage that was supportive of lesbian women could not invoke this particular legitimisation strategy, it was, however, able to draw upon the notion of the ‘stable couple’, thereby invoking aspects of the family values frame. As a result, there was very little room for single lesbian women in the debate and they remained peripheral throughout.

### 6.3.3 ART: choice, responsibility, and blame

As discussed in Chapter Five, a ‘fertility crisis’ had been identified as an issue of public concern by the Australian federal government, and debate regarding the appropriate means of resolving this crisis continued alongside debates concerning single and lesbian women’s access to ART. A Cabinet Summit examining Australia’s fertility rate was held in 2002 with the government proposing a range of financial incentives to boost the rate of births per woman (Maiden 2002). Take, for example, the following question directed to the federal minister representing the Minister for Health and Aging in 2002: ‘What are the implications for Australia if the fertility rate falls to 1.3 babies per woman by 2012?’ (Hansard, 2002, Aug 19<sup>th</sup>, question 495). By the time of completing the thesis (2012) the rate of births per woman had increased. Nonetheless, attention has focused yet again on concern about population growth due to the aging population in Australia. A recent article in *The Australian* pointed out that “Australia is still falling short of the replacement level (of 2.1 babies per woman of reproductive age) ... The main reason is that women continue to wait longer before having children” (Lunn 2011). This is framed as an issue of national import. The problem – and it is *assumed* to be a problem – has implications for the nation as a whole. It seems the historical legacy of women’s duty to reproduce *for the nation* has not yet left us. Back in 2002, it was noted in parliament that the government is aware of the “social

pressures for fewer children and for delayed childbearing” yet it was further observed that “[i]f older men and women *decide* to have children at an age when they are less fertile, this creates additional demand for IVF services and other expensive technologies” (Hansard, 2002, Aug 19<sup>th</sup>, question 495, emphasis added). The disjuncture between the reference to the somewhat vague notion of social pressure is summarily dismissed as being of no significant influence when the Minister invokes the rhetoric of ‘choice’. One presumes that the ‘social pressures’ referred to here include the myriad of inequalities that accrue to women (and to some extent, men) who *do* have children. It was clear that many commentators believed that individual women’s choices lay behind this social phenomenon and that the problem should be resolved by encouraging women’s reproductive desire to be contained within ‘appropriate’ contexts. Numerous articles noted the fact that ‘well educated career’ women were ‘delaying’ childbirth (Horin 2000; Manne 2002; Skatssoon 2002; Hinde 2007). The most obvious contradiction, however, is that this concern for increased reproduction does not apply to all women as the term ‘births per woman’ implies. Clearly, reproductive increases by lesbian and single women through access to reproductive technology were not being advocated as a corrective to the declining birth rate. Discourses about the need for population increase and the need to restrict lesbian and single women accessing ART appeared side by side in the public domain. Whilst fears about the creation of ‘fatherless’ children and ‘social engineering’ were expressed in the media in relation to ART use by single and lesbian women, young women were being reminded of their reproductive duty. Under the headline “Don’t leave it too late to have children, girls told”:

[t]eenage girls would be warned at school that their chances of falling pregnant decline with age, under a proposal to combat falling fertility rates. The Fertility Society of Australia will put a strategy to education departments around Australia calling for schools to include information on age-related infertility in sex education curriculums. (Hancock 2003)

#### 6.3.4 Defining infertility and the rights of the doctor

Part of the media debate, stemming at least initially from the fact that the McBain/Meldrum case was brought against the Victorian Government jointly by Meldrum and her medical practitioner, was the issue of restrictions placed upon doctors' rights to practice as they saw medically fit. Many commentators framed the debate as one concerning the definition of infertility and the rights of medical practitioners to decide and provide appropriate treatment to their patients. The then Federal Sex Discrimination Commissioner argued that "parenting was a matter for women and their doctors, not legislators" (Overington and Farrant 2000). This discursive placement does not question the premise that medicine should be the right and proper location for these discussions, rather than, say, women themselves or potential parents.

The debate concerning doctors' rights focused on them as having the appropriate expertise and therefore authority over the definition of 'infertility'. A debate ensued that centred upon the distinction between so-called 'medical' or 'clinical' diagnoses of infertility and what came to be referred to as 'social' infertility. The main question here was whether the label 'infertile' should be extended to single and lesbian women who were deemed to require ART for 'psychological reasons'. Within mainstream medical and public discourses, infertility is definitionally linked to heterosexual sex and implicitly to the heterosexual couple. In this context, infertility is being defined as an inability to conceive after a year of regular (hetero)sex. The extension of such an understanding to women who are infertile by virtue of the absence of a male partner proved controversial. Some commentators viewed the possible extension of medical definitions of infertility to include single and lesbian women as progressive in that it moved beyond the previous terms that described such women as experiencing 'social infertility' or infertility as a result of 'lifestyle choice'. These terms, however, were criticised by feminists and other commentators because they imply a level of choice that did not accurately represent single and lesbian women's situations.

The suggestion to subsume lesbian and single heterosexual women within an extended definition of infertility was perceived to carry its own costs. Chief among these was that otherwise healthy women would be deemed ‘psychologically’ unwell in order to access treatment. Murphy (1999) presents an argument against lesbian couples being diagnosed as infertile. She argues that, despite some similarities between infertile heterosexual couples and lesbian couples, and the possible benefits – such as parental rights, access issues, medical/health enhancement and efficiency – that *may* accrue to lesbian couples as a result of conflating the two, the costs are too great. These costs include:

- (1) The assimilation of lesbian reproduction into the heterosexual paradigm
- (2) Extending the boundaries of ‘compulsory motherhood’ beyond heterosexuality
- (3) The suggestion that **all** lesbian couples have a medical deficiency
- (4) The regulatory effects of a medical diagnosis
- (5) The acquisition of a medical diagnosis related to an impairment is not liberating (Murphy 1999, p.113-115)

Once again, the power to define what constitutes a genuine psychological reason would be left in the hands of a medical practitioner, whose job it would be to determine whether a woman was ‘psychologically infertile’. This process has parallels within abortion provision in those parts of Australia where legislation requires that medical practitioners certify that an abortion is necessary because to proceed with a pregnancy would cause ‘psychological harm’ to her. Similar to the compromise here, the feminist strategy to increase abortion access by removing it from the realms of moral discourse to within medical/health discourse had the unintended consequence of enhancing the power of the medical/health practitioners to define the nature of the problem. By including ‘psychological infertility’ as part of the requirement for a legitimate claim to access infertility treatment, single and lesbian women

are constructed as having a 'psychological aversion or problem' which prevents them from having heterosexual penetrative sex. Indeed, the Victorian Infertility Treatment Authority proposed guidelines in 2001 that gave access to ART for lesbians who were 'psychologically' incapable of having sex with a man (Johnson 2003). As Johnson suggests:

[l]esbians objected to being required to make a (heteronormative) case that they sleep with their own sex because they are afraid of, or repulsed by, men rather than because they are sexually attracted to women. (2003, p.50)

The then Premier of Victoria, Steve Bracks, responded to concerns that lesbians would get 'IVF on demand',<sup>75</sup> by stating "[i]t'll only be available to single women if they happen to have psychological damage assessed by a doctor and that's the reality" (*AAP General News* 14 Nov 2001). On the same day, under the headline "Women with 'psychological infertility' to get access to IVF", the Health Minister reaffirmed the centrality of the medical discourse stating that "[i]t's a matter for a medical specialist" (*AAP General News* 14 Nov 2001).

Woliver (2002) points out that such a strategy has the ability to obscure questions of social stratification and instead focuses on individual choice. This is partly the result of an over-emphasis on the medical/scientific framing of reproductive technologies within a liberal market setting which provides for discourses of progress and choice to predominate. In this way attention is drawn away from the social and political forces involved in the construction of infertility and its solutions. Woliver suggests that reproduction is being "enterprised up" (2002, p.8), denoting the increasingly scientific/progress/commodity frame being utilised in discussions surrounding reproductive technologies. This was indeed evidenced in the media

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<sup>75</sup> At numerous times throughout the debate attempts were made by commentators to debunk the myth that lesbian woman would be accessing 'IVF' procedures as such, rather than donor insemination (as is much more likely to be the case). See Johnson, C. (2003). "Heteronormative Citizenship: The Howard Government's Views on Gay and Lesbian Issues." *Australian Journal of Political Science* 38(1), pp.45-62.

debates by the assertion that tax-payer subsidised reproductive miracles should be restricted to heterosexual couples (Toy and Saltau 2000; Arndt 2002).

Farquhar and others have made the point that medical discourse largely constructs infertility as something that inhabits individual bodies and avoids macro explanations apart from where, as Farquhar puts it, “women’s stress, high exercise levels, or sexual activity is used to moralize and blame a particular kind of woman for her nonreproductive agency” (1996, p.42). Farquhar also highlights the importance of understanding infertility as an historical construct, pointing out that there is no inherent meaning to infertility. She explains: “[i]nfertility is the identification of the individualized social status of involuntary childlessness as an object of medical intervention, referral, and specialization” (Farquhar 1996, p.43). Importantly, she highlights how the experience of infertility varies according to individual social and historical circumstances. Poor people, for instance, are less likely to experience their involuntary childlessness as something for which only medical intervention is the remedy. She goes on to suggest that:

[o]nce the initial principal clientele of ART, childless heterosexual married couples with the ability to pay high medical costs, are themselves understood to be an exceedingly highly specific historical category, the political discursive struggles of those outside this demographic profile can be foregrounded. (Farquhar 1996, p.181)

More recently, it has been observed that the ‘deserving’ recipients of reproductive technologies are those who have dutifully cooperated with the requirements of modern Western liberal democracies. Amongst these requirements is the need for young women to increasingly control and monitor their bodies and reproductive capacities in responsible ways, thereby avoiding the status of ‘bad’ women/bad mothers such as the teenage mother or the single welfare dependent mother. As McRobbie states:



[i]nterventions to ensure that help is given to those who abide by the rules of responsible parenthood, means that those young career women in the UK who have followed the advice of New Labour, and have postponed childbirth until they have secured wage earning capacity, become deserving subjects of investment in scientific research. (2009, p.86)

In many ways this is what began to happen when the McBain/Meldrum case arose. It served to draw attention to what the current practices were and who participated in them.

#### **6.4 Feminist voices in the ART media debate**

A noteworthy aspect of the media debates examined here is that feminist voices were not positioned as central *actors* in the same way that they have been in relation to abortion. As discussed earlier, the media coverage that supported increased access to reproductive technologies for lesbian and single women were often framed within the dominant discourses or *frames* around ‘family values’. As set out above, these discourses centred around three themes: 1) establishing the similarities between normative (two parent, heterosexual) families and the proposed ones formed by single women and lesbian couples; 2) the ‘truth’ of infertility as understood within medical definitions; and 3) invoking the idea of ‘natural’ maternal desire for woman as evidenced by a willingness to ‘do all it takes’ to achieve motherhood.

This focus on reinscribing fixed notions of the relationship between women and maternity and conservative versions of the family in these debates has been considered by a range of feminist thinkers. McRobbie suggests that “[d]espite, or rather because of the proliferations of different modes of kinship in increasingly multi-cultural and sexually diverse cultures, the marital couple re-emerges as the favoured form for family life” (2009, p.86). Indeed, as the above media debate demonstrates, each time the practices of ART unsettle the ‘natural’

relationship between men and women in the private sphere, discursive tools are invoked in order to reinscribe essentialised understandings of reproduction and maternity.

The absence of feminist voices within the mainstream coverage of access to ART service prevented a sustained critique of this aspect of the debate. There were some exceptions to this with the planned amendments to the Sex Discrimination Act (SDA) and the proposed intervention of the Catholic Church in the Federal Court ruling, which became two focal points for feminist comment. An article appeared in *The Australian* on 28 October 2000 under the headline “How bishops’ IVF bid galvanised feminism”. This article, whilst ostensibly speaking to the controversy surrounding lesbian and single women’s access to ART, depicts a well-rehearsed narrative surrounding feminism and feminists by focusing on the battle between feminists and the church. Indeed, very little direct comment is made throughout the two-page article regarding any feminist viewpoint or contribution toward the terms of the debate surrounding access to reproductive technology. Rather, feminists are depicted as rallying behind the scenes via their networks in order to stave off any possible threat to a “change in the reproductive landscape in Australia” (Powell 2000, p.6) posed by possible actions of the Catholic Church. At the end of the article, a Women’s Electoral Lobby (WEL) spokeswoman is quoted as saying, “[w]hat we are saying to the Catholic Church is, regardless of what you try to introduce, the women of Australia will be ready” (Powell 2000, p.6). Some individual feminists were accorded *standing* in the debates. As noted earlier, Leslie Cannold featured strongly throughout the debate and contributed a number of opinion pieces in nationally circulated papers. As an ethicist drawing upon the *frame* of motherhood in her feminist arguments, she held considerable *standing* within the debate. Other voices included feminist politicians such as Senator Natasha Stott Despoja (2005), who wrote an article titled “Leave alone a woman’s right to reproduce”, where she uses her experience of recent motherhood to argue against interference with women and their choices in relation to reproduction. Well-known Australian second-wave feminist Anne

Summers wrote a piece in the *Sydney Morning Herald* early on in the debate in 2000, drawing attention to the attack on women's rights that the proposed amendments to the SDA represented.

As the previous chapter argues, the context within which media debates occur are central to the *standing* of the *actors* and the *frames* utilised. In this case, it is clear that only selected feminist *frames* gained entry into the media debate. These were restricted to those voices that represented well established and perhaps less controversial aspects of the debate and came only from a narrow range of feminists. Arguments were privileged that relied on either general notions of women's rights, 'choice' or 'control'. Such discourses, however, generally remained within many of the established *frames* of 'the family' and 'medical/health rights'.

Unlike the abortion debate, feminist activism and feminist academic voices were muted. Within the abortion debates considered in Chapters Four and Five the *frames* utilised drew upon the historical legacy of the preceding abortion rights campaigns where the frames of women's rights, motherhood, and health had come to predominate. The *discursive opportunity structure* in relation to the abortion debates was informed by the conservatism of the Howard government, the increase in pro-natalist discourses, a focus on family values and increasing social support for prioritising women's health (with access to abortion being viewed as part of this). As previously highlighted, the shift in the anti-abortion approach toward a women's rights argument, based upon positioning women as *victims* of the abortion industry, built upon this and utilised many of these *frames*, emphasising the need to protect women's health from the perceived harms of abortion. The same *frames* were utilised by the pro-choice moral defence of abortion arguments presented by Cannold where women's valuing of mothering is the focus. In this instance, the key *actors* in the debate remained the same, anti-abortionists, feminists, religious leaders and to a lesser extent, bio-ethicists. The

notable addition to this was the increased *standing* of politicians' voices, made possible by the strength of influence of the conservative Howard government. With the media debates on lesbian and single women's access to ART, feminists could not draw upon similar *standing* as they had in the abortion debate. In relation to ART, those with the most *standing* included bio-ethicists, politicians, religious leaders and medical practitioners. The *frames* here were those of natural versus unnatural families, miracles versus science going 'too far', and the instincts of motherhood as being the same for all women. Whilst feminists have debated these areas in academic circles, these discussions had rarely surfaced within public discourses in relation to ART which, as I have argued earlier, was quickly located within the realms of bioethics (see Chapter 3). As a result, few feminist voices could have *standing* within the *discursive opportunity structure* at the time.

## **6.5 Concluding remarks**

Many authors suggest that infertility treatment is inherently contentious and therefore there is a need to 'sell' it to the public. This is why media or public discourses play such a key role in these discussions. Seguin describes one of the main features of this 'selling' narrative as the need "to present every IVF birth as a miracle of modern science" (2001, p.210). Yet, as previously discussed, even 'miracles' can be questioned when they are applied to single and lesbian women. Those who wish to 'sell' the idea of equal access to ART for all women tend to rely on arguments that locate lesbian and single women's reproductive desires, interests and experiences as essentially similar to, or the same as, those of the heterosexual couple. The creation of the clinical category of 'psychological infertility' functions to reinforce an assumed fixed and natural relationship between women and maternity.

As suggested in the previous chapter, public discourse including media debates and popular culture are "both determining of, and determined by, prevailing social practices and beliefs"

(Franklin 1990, p.202). In the debates examined above it is clear that the *playing field* was defined by a conservative political environment that restricted the participation and standing of actors who drew upon discourses other than those most popularly rehearsed within the socio-political landscape at the time. Public rhetoric often relied on the concept of the family as its underlying foundation. It is within this context that the debates surrounding lesbian and single women's access to infertility treatments were able to gather such momentum and inspire a degree of 'controversy'. As Sourbut points out:

[L]esbian mothers have, of course, always existed, but I suggest that their increasingly high profile as a conceptual category is a direct challenge to ideological constructions of the family, and hence to the shape of the private sphere, one of the two basic supports of liberal political theory. (1996, p.228)

The 'natural' basis upon which the liberal public sphere relies, the sexually differentiated reproductive couple, is unsettled by some of the practices of reproductive technologies. Another troubling aspect of the public debate on infertility treatment for the morally conservative political approach is that it brings the practices of the private sphere into the realm of the public sphere governed by laws and contracts. Reproductive technologies represent the potential for a radical re-examination of the private sphere and the essentialised reproductive relations contained within it, yet as my examination of the media debates in this chapter reveals, such potential was successfully restricted as the normative status of heterosexuality remained relatively unquestioned. Alongside this, the political choices that shape both single heterosexual and lesbian women's maternity did not feature as part of the debate. This was the result of a limited range of discursive *frames* being utilised within the media debates and the peripheral positioning of any feminist commentators whose standing was undermined.

# Conclusion

This thesis has explored the discursive terrain that abortion and ART occupied in the period 2000-2007 with a primary focus on the Australian context. In particular, it has focused on public discourses, especially those contained within the newsprint media. In doing so, I have highlighted the ways in which an underlying construction of ‘woman equals mother’ continued to inform the meanings attached to reproductive practices like abortion and the use of ART by lesbian and single women. Within the various discursive locations this thesis examined, women, especially pregnant or potentially pregnant women, are found to be reduced to mothers or maternal subjects, limiting possibilities for a feminist politics of reproduction that disentangles the female body from the reproducing body.

I argue that there are three main discourses informing understandings of abortion and ART during this period. I have grouped these under the following broad headings: ‘rights/legal’, ‘medical/health’ and ‘moral’ discourses. I trace the underpinnings of the above three discourses to the liberal political philosophical tradition which relies upon gendered understandings of the individual that construct women as essentially maternal, and which accepts a public/private distinction to reinforce this characterisation. The socio-political environment in Australia (and most Western developed countries) remains dominated by the underlying principles of the liberal tradition which, I argue, has been used with varying degrees of success to achieve feminist goals in the area of reproductive politics. The deployment of liberal understandings, however, has produced contradictory outcomes for feminists in their use of key liberal concepts such as ‘choice’ and ‘rights’ in the fight for reproductive freedom, especially within the current neo-liberal context. As Baird (1998) suggests, terms like ‘choice’, ‘control’ and ‘rights’ find their meaning through the privileged liberal views of women and maternity.

This thesis has explored the construction of women as maternal subjects within the discourses that have come to dominate discussions of abortion and ART. I have paid particular attention to the recent move within some feminist discourses toward a ‘new’ moral debate that argues for viewing abortion as essentially a ‘mothering decision’ emanating out of the values of ‘care’ and ‘responsibility’ toward their potential child. I argue that while it is the case that the moral terrain has been successfully co-opted by the anti-abortion movement such that a feminist moral or ethical voice on abortion has been significantly stifled, the attempt to carve out space for this voice from within the ‘moral motherhood’ terrain reinscribes an essentialised and ultimately politically restrictive version of female subjectivity that reduces the pregnant body to the maternal body and women’s moral agency to that of the ‘mother’. As Baird argues:

[t]he moral weightiness of abortion depends on a similar moral weightiness given to pregnancy, and on an inevitable and ‘natural’ link between pregnancy and maternity ... (1998, p.296).

In Chapter 6 I examined how in media debates concerning lesbian and single women’s access to ART the discourse of good motherhood is successfully overlaid onto the idea of good womanhood. The notion of what a ‘good’ mother is in this context is interwoven with the ‘moralisation of health’ approach that I discuss in Chapter 3. This characterisation combines with a powerful discourse that legitimates heterosexual coupledness as *the* optimum healthy environment providing for the ‘best interests of the child’ and the basis upon which motherhood becomes more highly regarded. In addition, I suggest that the construction of the concepts of ‘social’ and ‘medical’ infertility reinforces a ‘natural/unnatural’ dichotomy, reinforcing the idea that the creation of the normative heterosexual family is the only appropriate use of ART. As a result, my analysis of the media debates on access to ART for lesbian and single women found that even those discourses in favour of increased access

centred on a narrow range of possibilities within which women could make a legitimate claim upon motherhood. All of these involved inhabiting the role of the appropriately desiring and desperate woman for whom no obstacle was too great in her quest for maternity. In this way, the essential, natural or inevitable maternal subject is reaffirmed. As the 'moralisation of health' imperative continues to grow in influence in these discussions, there is an increasing tendency to invoke a 'natural' role for the maternity in women's lives. Within this discourse maternal desire is constructed as instinctive, natural and the same for all women. Indeed, ongoing developments within the field of reproductive technologies such as the advent of 3D ultrasounds and the increasing use of embryo research and therapeutic cloning often represent notions of 'choice' alongside the promise of 'cure' within a broader discourse that emphasises the need for public information to inform concerned citizens (Palmer 2009, Riordan and Haran 2009). As Riordan and Haran (2009) suggest, such developments present limited possibilities for women to respond critically to the medical consultation. Within this context the intersections of media and biotechnology are more and more the site of critical feminist debate, examining the reconfiguration of bodies and embodied subjects (Smelik and Lykke, 2008).

Within these debates I have examined how women who were seen to be actively choosing, on their terms, when and how to engage in motherhood were constructed as selfish and even as a potential threat to any possible child they were to parent. This is also the case in relation to abortion, where certain abortions are constructed as 'bad' or 'unjustified' according to the degree to which they reflect the woman's concern for others, especially her unborn 'child'. Women who genuinely choose to refuse to engage with motherhood or enact maternity in ways that do not reflect the essentialised 'woman equals maternal' discourse are given very little space within the dominant public discourses.<sup>76</sup>

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<sup>76</sup> Recent research indicates that some women do indeed experience their abortion decisions positively yet representations of these viewpoints remain rare and women themselves admit to finding little space within mainstream public discourses to express them. See Kirkman, M., H. Rowe, *et al.* (2011). "Abortion is a



This thesis draws attention to the centrality of the media in producing and reproducing meaning in the debates surrounding abortion and ART in Australia. I have highlighted the way the *discursive opportunity structure* functions to facilitate the communication of a preferred set of ideas or arguments that fit into the dominant frames governing the *playing field* of a debate. I have suggested that this *discursive opportunity structure* can and does vary according to a range of co-existing factors that come together to produce more or less room for ambiguity or complexity in the public discourse. In relation to the abortion and ART debates examined in this thesis, the influence of the political setting during the Howard government era was a significant factor. The conservative nature of the mainstream socio-political environment at the time made it particularly difficult for complexity to be depicted and discussed. As a result, when single and lesbian women's access to ART became a topic of media debate, the complexity of 'women's rights' or feminist responses were afforded little room.

An important finding of this thesis has been the usefulness of drawing connections between the two spheres of reproductive decision-making, abortion and ART, which conventionally have remained obscured. This thesis provides insight into how women are constructed as mothers within various discursive locations across debates on abortion and access to ART. The essence of debates in the area of abortion and access to ART in Australia continues to be a 'woman equals mother' discourse. Without this essentialised meaning many of the problem definitions within these debates would make little, if any, sense. Yet these problem definitions are rarely considered alongside one another. Tracing the connections between the two sites of reproductive politics and examining the multiple elements impacting upon the *discursive opportunity structure* within public discourses demonstrates not only the resilience of essentialising discourses on maternity within different *framing contests* but also

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difficult solution to a problem: A discursive analysis of interviews with women considering or undergoing abortion in Australia." *Women's Studies International Forum* 34(2), pp.21-129.

draws attention to absent *frames* within these debates. This is particularly the case for a broader range of feminist *frames* that might assist in shifting the terms of the debate. The use of the moral motherhood *frame* was unsuccessful in shifting the terms of the debate as the pre-existing ‘maternal instinct’ *frame* remained intact and was also able to be successfully utilised to reinforce the normative family and gender roles in ART debates. In order to open up new ways to engage with and understand the gendered relations of reproduction we need to move beyond mother/non-mother dichotomies and shift away from constructing women’s bodies whether pregnant, potentially pregnant, contracepting, maternally desiring or not, through the lens of motherhood.

It is my suggestion that at the points where women’s reproductive practices prove most disruptive to a ‘woman equals mother’ discourse we find attempts to reinscribe this identity upon certain female bodies at the same time as firming up the boundaries between these and ‘other’ non-maternal bodies. Disruptive practices include women who chose abortion for ‘frivolous’ reasons or lesbian and single women who do not exhibit appropriate sacrifice, desire or commitment to notions of the family when seeking to use ART. Increasingly, both ‘sides’ of the debate in abortion and ART are constructed such that the experiences, desires and political implications of a broad range of women’s experiences with reproduction remain unrepresentable. Anti-abortion discourse has moved to focusing on the ‘grief’ of lost motherhood with pro-choice activists emphasising the ‘mothering decision’ behind abortion. In ART debates single and lesbian women’s desires to parent are represented as the same as those of all women and the resulting families as no different from the traditional nuclear family.

The use of traditional feminist language of ‘choice’ and ‘rights’ is particularly fraught within the current neo-liberal context, drawing our attention away from the broader *playing field* within which feminist interventions need to engage. This thesis considers how women’s

relationship to reproduction is constructed across a range of feminist and public discourses dealing with abortion and access to ART, and highlights connections among these discourses. In doing so this thesis allows greater insight into various means by which the pervasive social and cultural understandings of a 'woman equals mother' discourse are maintained and perpetuated. In order for feminist voices to have increased access to and influence upon the public discourses on these matters attention to these connections is crucial. Feminist interventions at the points of connection and disruption are needed with particular focus on how the 'woman equals mother' discourse is invoked at these sites. This thesis suggests that the public realm and media debates are important sites of intervention for these voices.

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