

# Gay and Lesbian Issues and Psychology Review

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Damien W. Riggs

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# Gay and Lesbian Issues and Psychology Review

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The Review is a peer-reviewed publication that is available online through the Australian Psychological Society website. Its remit is to encourage research that challenges the stereotypes and assumptions of pathology that have often inhered to research on lesbians and gay men (amongst others). The aim of the Review is thus to facilitate discussion over the direction of lesbian and gay psychology in Australia, and to provide a forum within which academics, practitioners and lay people may publish.

The Review is open to a broad range of material, and especially welcomes research, commentary and reviews that critically evaluate the status quo in regards to lesbian and gay issues. The Review also seeks papers that redress the imbalance that has thus far focused on the issues facing white lesbians and gay men, to the exclusion of other sexual and racial groups.

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# Gay and Lesbian Issues and Psychology Review

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## **EDITORIAL: PARENTING, FAMILY ISSUES AND HETERONORMATIVITY**

LIZ SHORT & DAMIEN W. RIGGS

As the title suggests, this issue of the *Gay and Lesbian Issues and Psychology Review* contains articles about parenting by and the families of lesbian women and gay men. Whilst there are many differences between the experiences of lesbian women and gay men living in a heteropatriarchal society,<sup>1</sup> it is nonetheless the case that both groups of people experience life in a context that in multiple ways invalidates their relationships, attempts to render their families as something other than or as non-families, and presents obstacles on the basis of the sexuality and/or gender of the parents (and how that is seen to matter). Thus, issues of legal, public policy and discursive context have very clear (and frequently negative) impacts upon parents and children in same-sex parented families. These are experienced in highly personal, complex, and subtle, as well as very practical and overt, ways. These concerns are at the core of many of the contributions to this issue, and as such the eyes of many of the writers are firmly on wanted and needed change. This issue of the *Review* thus provides powerful and important information that we hope will be both interesting to the reader, and useful in its provision of information of interest to legislators, policy makers, decision makers, as well as to psychologists, teachers, and lesbian and gay people, amongst others.

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<sup>1</sup> It should of course be noted that there are many differences *amongst* lesbian women and *amongst* gay men, particularly in relation to classed, racial, and other cultural differences (Riggs, 2007). The focus primarily on white, coupled lesbian women within this issue is a reflection of the fact that this group of parents is the focus of the majority of the family studies literature on non-heterosexual-parented families and parenting. Whilst such work is clearly needed (and is miniscule compared to the literature on heterosexual-parented families), it is important to signal here that despite calling broadly for contributions on LGBTI families and parenting, the experiences of other marginalised group members (such as bisexual, transgender or intersex individuals, and those in polyamorous relationships to name but a few) are unfortunately left largely unspoken (see Riggs, 2006, for more on this).

Three key concerns can be seen to resonate throughout this issue that link the legal, public policy and social context in which people live to their day-to-day lives. First is the issue of the importance of legal recognition of relationships that does not discriminate against people on the basis of their gender or sexuality, or on the basis of the gender or sexuality of their parents. The last five years have seen very significant changes around the world to remove this kind of discrimination from legislation and policies, such as those which recognise couple and family relationships, and govern such things as the right to access fertility services, and to apply to adopt or foster children. As the articles in this issue illustrate, such changes have been and will continue to be propelled by many things, including increased recognition of the unacceptability and abhorrence of discrimination, of its negative effects on individuals and on society, and on how it flies in the face of human rights principles and social justice. A second and related focus is language and discourse. The discriminatory legal situation and discourses which invalidate and make the family lives of people in families of same-sex parents or same-sex attracted parents more difficult can be seen to be mutually constitutive. That is, in a world in which the sociocultural and legal template of a family is one mother and one father and their (typically biological) children, it is not surprising that discourses and language frequently fail to recognise, and are used to undermine, families of lesbian and gay people. A third concern that resonates through many of the contributions is that of the negative emotional impact and effects of discriminatory laws, public policies and discourses, and how gay men and lesbian women, and their children, have to navigate and negotiate these.

The issue includes five research articles, three commentaries, and three book reviews. The first research article explores and presents material focusing on the benefits for children born into the family of a female couple of having both women legally recognised as parents. Short presents information about the state of legal recognition (and lack of legal recognition) of the

parents of children conceived via donor insemination who are born into the family of a female couple in Australia. She presents an overview of the removal of discrimination against these children (and their parents) that has occurred over the last few years in the area of parentage legislation, and summarises the main reasons why such changes have been called for. She then presents information about the beneficial effects on children in parts of Australia in which laws have been amended so as to recognise both members of a couple as parents of a child conceived with donor insemination, regardless of whether the parents are a same-sex or a different-sex couple. This article draws, in part, on the words of people who have provided information and analysis to law reform inquiries.

The first commentary, by Foord, provides a powerful and compelling example of material recently sent to a law reform body, the Victorian Law Reform Commission, critiquing their interim recommendation that a non-birth lesbian mother (of a child conceived using donor insemination) should be recognised as a parent, *but* that this be done through processes of adoption – in contrast to heterosexual fathers, who are automatically treated as legal parents of their children born from donor sperm.

Also with a keen eye on the problems caused by legislation that treats some people in a far less advantageous way because of the gender of their partner (or of their parents), Ripper presents material from her research with lesbian women who are planning to or who have conceived children in South Australia (SA). As in Victoria, Australia, and many other parts of the world, fertility services in SA are generally not accessible to women who don't have a male partner. This provides one major reason why lesbian women in SA who want to conceive often do so with the assistance of a self-recruited known sperm provider. Ripper analyses her material with a focus on the 'emotion work' that this involves. Ripper's article provides further indication of the difficulties that discriminatory laws and policies cause, and how these can come to be intricately (and problematically) entwined in the emotional experiences and lives of those involved. It also sheds light on how such regimes set the scene for an increased rate of potential conflict or difficulty, as women seeking donor sperm by necessity become involved in a significant

amount of complex 'emotion work' with known donors who may well have emotional needs and wishes that are not necessarily easily recognised, reconciled, and which can be somewhat unpredictable.

The third article, by Du Chesne and Bradley, documents and analyses the subjective experiences of women who become parents when their female partner gives birth to a child. This article also, inevitably, deals with the negative effects on such mothers when they have no legal status as parents or as mothers. The article also deals with the issue of how the related language and dominant discourses about motherhood and family must be negotiated and navigated by lesbian mothers as they construct their maternal identity. In so doing, the authors suggest, lesbian non-birth mothers at times challenge, side-step, use, reject and transform the binaries and discourses that locate them as other than ('real') mothers.

The fourth article, from England, sees Evans and Barker examine data collected in focus groups with counsellors from a family-focused agency. In their analysis they show that heterosexist and homophobic discourses are flexibly used by counsellors when speaking about parenting in same-sex families. With fine grained and insightful analysis they present some of the ways in which these discourses are structured and deployed, and to what ends. For example, they illustrate how positioning one's self as being concerned for children's well-being can be a device used to support the retention of discrimination in laws and public policies. Evans and Barker also demonstrate how more affirmative and anti-discriminatory discourses are also structured and deployed, and how the two interact. They highlight the need for counsellors and others to have up-to-date information and knowledge of the family-studies research that shows positive outcomes and experiences for children in same-sex parented families as one way of countering derogatory discourses, and of ensuring good counselling practices.

In a chapter reprinted from *Out in the Antipodes* (Riggs & Walker, 2004), van Reyk discusses and analyses material from interviews with gay men who had provided sperm to lesbian women to conceive a child or children. This article provides an example of the diverse ways in which gay men relate to the women to whom they provide

sperm for conception, and to the children subsequently born, ranging from uninvolved or unknown donor, to co-parent. This article provides an example, from the position of gay sperm providers, of some of the experiences, ideas, use of language, hopes and emotions of such men. It provides indications of how women can also change in their hopes and plans, and how these are not necessarily in keeping with those of gay sperm providers. Mirroring some of the issues raised by Ripper, it gives indications of some of the potentially complex emotions involved, and provides examples of the ways in which language and discourses concerning fatherhood and biology are used in a variety of ways, at times by the same people, and at times to mean quite different things.

Van Reyk's article sits very interestingly and thought-provokingly alongside those of Short, Foord, Du Chesne & Bradley, and Ripper. It gives numerous indications not only of how relationships and families are creative, dynamic and flexible, but of how these qualities (especially when combined with: the varied way in which such terms as "father", "parent", "family", and "donor" are used; the current state of lack of legal recognition of same-sex couples as parents; restricted access to fertility services for lesbian women; and restricted access to adoption, and surrogacy services for gay men), provides a fertile ground for complex relationships, for changes of heart, for disappointments, for feelings of being misunderstood or overlooked, and for feared or actual conflict between sperm providers and lesbian women.

Taking us to the issue of relationship recognition, and following the afore-discussed piece by Foord, is a commentary by Croome, in which he discusses the issue of relationship recognition for same-sex couples, with a focus on the Civil Union and Civil Partnership legislation that the Australian Capital Territory attempted to institute, but were thwarted, and on the Tasmanian Relationship Registration scheme. The focus of Croome's commentary is the issue of ceremony, which, along with other objections by the current Australian federal government, Croome posits as central to the federal government's opposition. He reports on his own experience of attending a Civil Union in New Zealand, again making the link between laws and emotions and well-being, as well as justice and equality.

Kentlyn provides a commentary that draws attention to the pervasiveness and negative effects of heteronormativity, and on how it is encountered in a myriad of ways, and again, how this shapes people's lives and emotions. She highlights that not only does heteronormativity constrain and have negative effects on people who do not identify as heterosexual, it constrains and has negative effects on *all* people, on society as a whole, and on the discipline of psychology. She highlights the need for the discipline of psychology to move beyond and to challenge the heteronormativity that has both at times constrained psychology and the understandings and practices involved in it, and been promoted by it.

The issue concludes with three book reviews. Linking in with the themes of several of the articles, Dankert reviews *Confessions of the other mother: Nonbiological lesbian moms tell all!* She highlights the value of sharing personal stories, and again, a focus of the piece is the ways in which legal non-recognition of the family relationships between this group of mothers and their children has a myriad of negative effects, including practical difficulties and intermittent sadness and worry. She also highlights the use of discourses and of language, and how lesbian women who are mothers creatively and boldly carve out their lives and relationships, not only partly *with* the linguistic and discursive materials that in some ways work to render them problematic or 'needing explanation', but also *in defiance of or with little regard* to these. Cheng reviews *When our children come out*, a resource that she indicates is useful for family members and for teachers. Again, a focus of the review (and the book) is the dominant heteronormative and anti-lesbian and gay discourses that are still prevalent and that frame lesbian and gay people as 'deficient' or 'needing explanation'. In the final piece, and providing yet more examples of the prevalence, power and problematic nature of heteronormative and anti-gay and lesbian discourses and practices, in this instance, in the form of conversion therapy, Venn-Brown reviews *Ex-gay research: Analysing the Spitzer research and its relation to science, religion, politics and culture*.

This issue provides important material that is very timely, given the family-related legal and policy debates and changes (and called-for changes) that are occurring in Australia and

other parts of the world. We, along with the contributors, are pleased to offer this material, and hope that it will be of interest and use to readers.

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## **"IT MAKES THE WORLD OF DIFFERENCE": BENEFITS FOR CHILDREN OF LESBIAN PARENTS OF HAVING THEIR PARENTS LEGALLY RECOGNISED AS THEIR PARENTS**

LIZ SHORT

### **Abstract**

*Across Australia, if a woman who gives birth has a male partner, he is able to be recognised and registered on the birth certificate as the child's legal parent, whether or not he is the child's biological parent (e.g. following donor insemination). In some parts of Australia, the law has been changed to allow a birth mother's female partner who is in the same position to be recognised and registered as the child's legal parent, but in other parts of Australia, this is still not the case. Discriminatory parentage (and other family-related) laws are regarded by both those who support them and those who oppose them as marking out same-sex parented families as less acceptable or desirable than other families, or even, as not families at all. Based on the Australian Conceiving the Family: Lesbian Mothers' Decisions, Experiences and Well-being, and the Current Legal, Public Policy and Discursive Context project, this article presents a summary of the reasons that changes in parentage laws have been extensively called for, and the benefits arising from such changes, with a focus on the needs and well-being of children.*

### **Introduction**

#### *Recognition (or Lack Thereof) of Non-Birth Lesbian Mothers in Planned Lesbian-Parented Families: The Current Situation*

Governments in the Australian Capital Territory (ACT), the Northern Territory (NT), and Western Australia (WA) have recently amended their 'Status of Children' laws<sup>1</sup>: Now, children born in these parts of Australia into the family of a couple, whether the couple is comprised of a woman and a man, or a woman and a woman, are able to have both their parents recognised in State and Territory law as their parents, and recognised as

such on their birth certificates<sup>2</sup>. Other states are also reviewing the lack of recognition in their legislation given to the families of same-sex couples. In an Interim report on their Inquiry into key family-related laws in Victoria, the Victorian Law Reform Commission (VLRC) asserted that "the status of children born to a lesbian couple [should] be brought into line with children born to heterosexual couples by giving legal recognition to the non-birth mother" and that the "law should recognise the birth mother's female partner as a parent of the child" (2005, p. 17).<sup>3</sup> In part, the context for these legislative reforms and reviews of parentage laws are recent changes in the legal status of same-sex partnerships that have occurred and are continuing to occur in Australia

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<sup>2</sup> For example, the Parentage Act 2004 (ACT), Division 2.2 and 2.3 specifies that presumptions about parentage can arise from marriage, domestic partnership, registered information, findings from court, and a reproductive procedure. If a woman undergoes a reproductive procedure with the consent of her 'domestic partner' the partner is conclusively presumed to be a parent of the child born (a domestic partner is presumed to have consented, but this is rebuttable). A 'procedure' is explicitly defined as "artificial insemination... or any other way (whether medically assisted or not) by which a woman can become pregnant other than by having sexual intercourse with a man" (p. 7; see <http://www.legislation.act.gov.au/a/2004-1/current/pdf/2004-1.pdf>).

<sup>3</sup> Despite these comments, and in stark contrast to the reforms made by the other States and Territories of Australia, in their Interim Report, *Position Paper Two: Parentage*, instead of recommending that Victoria's *Status of Children Act 1974* be amended to make it appropriate to *all* children conceived by alternative insemination, the VLRC recommended that various forms of adoption (some yet to be devised) be the way in which female (as distinct from male) non-biological parents are recognised as parents. This led to a wave of strong criticism (and for many, disbelief) from lawyers, academics, professionals, people in lesbian-parented families themselves, and others (see, for example, Foord, this issue). The initial *Consultation Paper* resulted in 243 submissions to the VLRC, and *Position Paper Two: Parentage* resulted in more than 350. At the time of publication, the VLRC's Final Report has been handed to the Attorney-General, but not yet been made public.

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<sup>1</sup> *Artificial Conception Act 1985* (WA) s 6A; *Status of Children Act 1978* (NT) s 5DA; *Parentage Act 2004* (ACT) s 8(4). The changes came into affect in WA in 2002, the ACT in 2004, and the NT in 2004.



and overseas.<sup>4</sup> Parentage recognition is one of several recent and ongoing debates that relate to the definition and recognition of various types of families in which a dominant viewpoint still frequently articulated is that families of same-sex parents are not 'real' families, that to give recognition to such couples and families somehow weakens the institution of marriage, and that all children will 'do better' with or need one mother and one father.<sup>5</sup>

Increasing numbers of Australian children are negatively affected by the remaining discriminatory parentage laws. As summarised by the VLRC (2004), a "broad range of obligations and entitlements ...arise out of the parent-child relationship created by State Law" (p. 29), including giving a child entitlement to: compensation under schemes such as workplace or transport accident and for victims of crime; a share of the parent's estate if the parent dies without making a will; and a distribution of the parent's superannuation. Being recognised as a parent engenders responsibility for the supervision of the child; the right to be consulted and heard on proceedings concerning the care and welfare of the child; the power to appoint a guardian for the child; and the power to consent to the adoption, and short-term and permanent care of the child. Along with these legal and financial aspects, many practical, social, symbolic and emotional implications arise for children and their families from the non-birth mother being recognised in law

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<sup>4</sup> E.g. See Millbank, (2006a) and Marriage Equality Australia <http://www.australianmarriageequality.com/international.htm>. It is beyond the scope and intention of this article, but the reader is referred to Riggs (2006) and Phelan (2001) for work which problematises and contextualises the issue of arguing for any forms of legal recognition of family relationships by the State, given that such recognition privileges some types of relationships over others, and links legal recognition of relationships to the history of the State in Australia and elsewhere.

<sup>5</sup> For example, the Federal government has repeatedly made these points: For example, when supporting denying access to fertility services to women who don't have a male partner, when changing the *Marriage Act 1961 (Cth)* to enshrine that marriage can only be between one man and one woman and that overseas marriages will only be recognised if they are between different-sex couples, when moving to overturn the ACT's Civil Union legislation, and when planning to refuse to recognise adoptions by same-sex couples that have taken place overseas. See Prime Minister's speeches at <http://www.pm.gov.au/search.cfm>; see also the SaltShakers at <http://www.saltshakers.org.au/>.

as a parent, and hence, the family *as* a family — or not (as detailed in this article).

In the ACT, WA, and NT — what Professor Jenni Millbank has termed the 'recognition states' — children born into the family of a female couple can have their non-birth mother recognised as a parent whether they were born prior to or after the legislative amendments. Existing birth certificates can be amended to include both women as parents. Even if a child's birth certificate is not amended, the child (and his or her parents and extended family members) are afforded the benefits that arise from having the non-birth mother recognised in law as the parent. Benefits also occur for children who were *not* born in the 'recognition states' but who live in them, and for children who were born in the 'recognition states' (and who have both mothers recorded as parents on the birth certificate) but who live in other parts of Australia. As Millbank summarised, in terms of State and Territory law, "all children born to lesbian couples through assisted conception now have a second parent if they are living in WA, NT or ACT" (p. 48) and laws "in each State and Territory presume that the person listed as a parent on the register of another jurisdiction is indeed a parent" (2006b, p.50). Further, and importantly, the benefits of having one's non-birth mother registered on one's birth certificate can extend to the Federal level: Section 69R of the *Family Law Act 1975 (Cth)* provides as follows:

If a person's name is entered as a parent of a child in a register of births or parentage information kept under a law of the Commonwealth or of a State, Territory or prescribed overseas jurisdiction, the person is presumed to be a parent of the child (underlining in original).

Thus, the Family Court ought to recognise a person registered as a child's parent on the birth certificate as a parent for the purposes of the Family Law Act, unless the presumption is rebutted, or unless the law is changed (see Millbank, 2006b for further discussion).

### The Study

This paper is based on documents gathered and interviews undertaken for the Australian *Conceiving the Family: Lesbian Mothers' Decisions, Experiences and Well-being, and the Current Legal, Public Policy and Discursive Context* project. The project explored some important aspects of life for lesbian women who have had children as lesbian women in contemporary Australia, including: how the legal, public policy, social and

discursive context affects and shapes decisions about how to conceive and structure families, and subsequent family life; the range of discourses about fatherhood, biology and lesbian-parented families, and how these are engaged with and negotiated; and how well-being can be promoted (including what changes in laws and public policies are indicated). The rich data gathered shed considerable light on the experiences and needs of children<sup>6</sup>.

Initial document analysis and interviews were undertaken in Victoria. Subsequent to the amendments in parentage legislation, document analysis and interviews with women in WA and the ACT were also undertaken. Overall, 68 women were interviewed. Forty-one were already mothers, 8 had a child due, and 7 were organising or attempting to conceive (or their partner was). Twenty-six identified as working and 30 as middle class, 39 as Anglo and 17 as being from other cultures. The women had 52 children, ranging from birth to in their 30s (11 of these had been born in a previous heterosexual relationship). Half of the mothers/intending mothers had developed resources or been involved in organising within the lesbian community (for example, co-ordinating social groups).

Another 12 service providers (e.g. health workers and lawyers) were also interviewed (although some were also lesbian women who were mothers, they contributed information from their work perspective). In addition to drawing on the words of the 24 mothers/intending mothers and some of the service providers who contributed to the *Conceiving the Family* project from the ACT and WA<sup>7</sup>, this article draws on the words of women who have recently written to Australian legal reform bodies, primarily the VLRC. A contemporary grounded theory approach was used in the research, involving cycles of data gathering and analysis; open, focused and selective coding; discussing developing understandings with participants and others; and seeking additional sources of information (e.g. see Charmaz, 2006).

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<sup>6</sup> An extension to the research is planned, to further explore the experiences of children in the 'recognition' states, as compared to those in the 'non-recognition states'.

<sup>7</sup> In addition to these, of the 56 mothers/intending mothers who contributed to the research, 22 had conceived or were attempting to conceive while living in Victoria, 5 in other states of Australia, and 5 in the US or the UK.

### **Why Changes to Discriminatory Parentage Legislation Have Been Called For and Made**

The importance of amending family-related laws to remove discrimination based on sexuality or gender, or the sexuality or gender of one's parents, has increasingly been emphasised. Reform has been called for by governments, Legal Reform bodies, Human Rights organisations, child welfare groups, academics, and people in same-sex parented families—and criticism increasingly made of governments which fail to amend discriminatory laws, or, worse, entrench them. Many commentators highlight the implications of discriminatory (and non-discriminatory) laws both on individuals and on the broader tenor and fabric of society (e.g. Nicholson, 2006; Tobin, 2004). Lack of legal recognition of non-birth mothers *as* mothers and the families of lesbian couples *as* families is an area of reform that has repeatedly been located by researchers and by families themselves as of utmost importance (e.g. see Johnson & O'Connor, 2002; McNair, 2002b; McNair et al, 2002; McNair, 2004; Millbank, 2003; NSW Gay and Lesbian Rights Lobby, 2002; Prospective Lesbian Parents (PLP), 2004; Lesbian Parents' Project Group (LPPG), 2004; Short, 2007; VLRC, 2005). As summarised below, several main, and related, reasons are given for the need to amend the remaining discriminatory parentage laws, and in particular, to recognise the *female* partner of a woman who gives birth to be that child's parent, in the same way that a *male* partner of such a woman is recognised as that child's parent, whether or not he is the child's biological parent.

#### *The Current Laws are Contradictory*

The current situation is increasingly untenable because of the contradictions between family-related laws at the Federal and the state level, and, in some parts of Australia, between various laws at the State level (e.g. see Sifris, 2005, Millbank, 2006a, 2006b). A lawyer consulted for the *Conceiving the Family* project described the current situation in relation to the recognition of family relationships for Australian children with same-sex parents as "an absolute dog's breakfast". For example, a child conceived via donor insemination by a lesbian couple in the ACT is recognised in the laws of the territory as having two parents, but this is not the case in most Australian Federal laws. In Victoria, although the *Statute Law Amendment (Relationships) Act 2001* and the *Statute Law Further Amendment Act*

*(Relationships) Act 2001* introduced the term 'domestic partner' into most Victorian laws, thereby recognising same-sex couples as couples (and in some instances, such as the *Children and Young Person's Act [1989]*, recognising a non-birth parent as someone with some parenting responsibilities) it did not introduce 'domestic partner' into three key acts that pertain to family relationships, including the *Status of Children Act 1974*<sup>8</sup>. The result of this is that children living in Victoria do not have their non-birth mother recognised as their mother at either the State or Federal level – but would, at least in the State and Territory laws, if they moved to the ACT, the NT, or WA.

*The Current Laws are not in Keeping with Anti-discrimination and Human Rights Obligations and Principles*

As increasingly pointed out by lawyers, academics and others, laws which recognise a child's parents and family only if the parents are of a different gender contravene anti-discrimination and Human Rights obligations, legislation and principles (e.g. the *Declaration of Human Rights [1948]*, the *International Covenant on Civil and Political Rights [1966]*, the *Convention on the Elimination of All Forms of Discrimination Against Women [1979]*, and the *Convention on the Rights of the Child [1989]*). As the VLRC reported, "children born to same-sex couples lack the full range of rights and protections that are afforded to children born to heterosexual couples. This is unacceptable and is inconsistent with the *Convention on the Rights of the Child*" (2005, p. 17). A group of prospective and current mothers summarised in a submission to the VLRC:

Children have the right to be treated equally under the law, regardless of family structure, sexuality, race, ethnicity, and number of parents or their parents' marital status. Yet our children are not protected under Victorian law from discrimination on the basis of their parents' sexual orientation or their family formation — indeed, discrimination is actually enshrined in Victorian law... (PLP, 2004, p. 20).

In 2003, the Tasmanian Law Reform Institute recommended that Tasmania change its *Status of Children Act (1974)* to recognise female partners of birth mothers to be parents in the same way that male partners in the same position are recognised as parents, but this did not pass into

law. A review by the Parliament of Tasmania's Joint Standing Committee on Community Development was initiated. Not surprisingly, the Committee reported that "the denial of recognition to the same-sex partner of a woman in equivalent circumstances [to a different-sex partner of a woman who gives birth] is discriminatory", and that "differential legal treatment of persons in equivalent circumstances is unjustifiable" (p. 10) and "open to legal challenge" (2004, p. 12).

*The Current Laws Cannot be 'Justified' by the Family Studies Research*

At times, discrimination in family-related laws is acknowledged as discrimination, but it is argued that it is justifiable or, even, that it is in the 'best interests' of children. However, in relation to the assertion that all children 'need' or will 'do better' with the involvement of a father (as well as a mother), as Walker and McGraw (2000, p. 563) reported, "although there might be an ideological basis to this assumption, it lacks empirical support". Instead, that oft-made assertion is based on a confusion between correlation and causation, and inappropriate extrapolation of findings (for example from 'fatherless' families who are fatherless because of separation following conflict or worse, and 'fatherless' families in which the child was born following alternative insemination into a family in which there is not a male parent). The family studies literature indicates that family *processes* (such as the quality of and satisfaction with relationships within the family, the quality of parenting, and the psychosocial well-being of parents) are the family factors that contribute to determining children's well-being and 'outcomes', rather than family *structures*, per se, such as the number, sexuality, gender, and co-habitation status of parents. (e.g. see Golombok, 2000; McNair, 2004; Millbank, 2003; Tasker, 2005; Vandewater & Lansford, 1998; Wise, 2003).

Further, as the body of comparative family studies research has become more extensive and robust, researchers and reviewers more confidently report that in some aspects, parenting by lesbian couples and the 'outcomes' of children parented by lesbian couples show comparative strengths (e.g. see Johnson & O'Connor, 2002; Kershaw, 2000; McNair, 2004; Millbank, 2003; Stacey & Biblarz, 2001; Tasker, 2005). For example, McNair (2004) reported that a "range of rigorous studies has shown that children in lesbian families do at least as well as children in heterosexual families ... There is sound evidence of equal or more positive

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<sup>8</sup> The others were the *Infertility Treatment Act 1995* and the *Adoption Act 1984*

outcomes for children born into families with non-biological parents, same-sex parents and through surrogate arrangements. These apply both to children's emotional, social and psychological developments, and to parenting styles and family functioning" (p. 7, p. 9). Rather than this being anything essential about men and women, or lesbian or heterosexual people, it is about how parenting is enacted: It is well documented that in planned lesbian-parented families, the non-birth mother's level of involvement in parenting is usually higher than that generally undertaken by men in heterosexual parenting couples, and on a par with that of the birth mother, and that in lesbian-parented step-families, the non-birth mother is also frequently heavily involved in the day to day care of children (e.g. see Chan et al, 1998; Dunne, 2000; McNair, 2004; Short, 2007; van Dam, 2004; Vanfraussen, Ponjaeaert-Kristoffersen, Brewaeys, 2003).

### *The Current Laws Lead to a Range of Difficulties*

As noted by O'Hanlon et al. (2004), "public discriminatory attitudes and second-class legal status cause physical, emotional, and financial harm to lesbians, their families, and their children" (p. 227). Focusing on the impact on children, Stacey (1998) noted that "children of gay parents are vicarious victims of homophobia and institutionalized heterosexism. They suffer all the considerable economic, legal, and social disadvantages imposed on their parents, sometimes more harshly" (p. 134). Similarly, and emphasising the inter-related nature of the negative effects of discriminatory family-related laws on children, the Lesbian Parents' Project Group (LPPG) wrote the following to the VLRC:

Discriminatory laws... ensure that children in such families are treated in a discriminatory way and face a range of unnecessary hardships. ... It should be unacceptable to a civil society to have discriminatory laws and related practices that attempt to render the families of a large and increasing number of children as non-families, and which can lead to stigmatisation and marginalisation of children and their families... As yet, most of our children are not aware that numerous laws in this state and country construct their families as not real families and one of their parents as not even their parent. We hope that these laws and policies in Victoria (and in Australia) will be changed, as soon as possible, so that our children, and those who will follow, can be spared the many obstacles and hardships that arise from discriminatory

laws and related policies and practices (2004, p. 16).

Below, the main areas of disadvantage and difficulties caused to children by family-related laws that do not recognise their non-birth mother as their mother are briefly presented.

### *Legal, Financial, and Practical Implications*

If a child is not recognised in law as the child of his or her non-birth mother, he or she is potentially disadvantaged in the areas of financial support (if his or her parents separate), inheritance (from his or her non-birth mother and her extended family), superannuation, and compensation. If the child's birth mother dies, he or she suddenly has no legal parent<sup>9</sup>. In addition to causing numerous practical and emotional difficulties, this means that court orders need to be taken out at a very difficult time, and the child and surviving mother can be vulnerable to claims by others (e.g. the family of the birth mother, or possibly a known sperm provider) to take over the care of and responsibility for that child. When non-birth mothers are not recognised as mothers and the family are not recognised as a family, children in the family are not officially recognised as siblings if they are not born by the same mother. A plethora of day-to-day difficulties can arise: 'Non-recognition' of one parent in a two-parent family means that children have only one parent who can legally give permission for treatment in a medical emergency, enrol them at school, approve school excursions, and take them in or out of the country. Contributors to the *Conceiving the Family* project gave many accounts of difficulties, some of which take place at times of high stress, such as when travelling overseas, and when emergency hospital treatment is required. The VLRC reported that they:

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<sup>9</sup> This is not the case, of course, if the parents have registered the sperm provider as the father on the child's birth certificate. However, as contributors to the *Conceiving the Family* project pointed out, and as written about in some submissions to Law reform bodies, although some lesbian women who are mothers have intentionally registered the sperm provider on their children's birth certificates as the father with full understanding of the legal, financial and social implications for all concerned of doing so, some have done so without being aware of the implications and later regret doing so and/or have encountered difficulties as a result (or the children have), and some have felt pressured into doing so by public servants, and/or as a result of being incorrectly informed of the options.

... received many submissions from women who described the practical consequences for them and their children of the absence of legal recognition of the non-birth mother. These submissions reported that the non-birth mother often encounters obstacles and ignorance, and at times hostility, in her dealings with government agencies and service providers where legal status is a relevant factor. Because the non-birth mother cannot be named as a parent on the child's birth certificate, she is unable to produce evidence of her relationship to the child unless she has taken steps to obtain a Family Court parenting order or some form of written authority from the birth mother. These steps involve expense, effort and stress and are often inadequate for a variety of purposes (2005, p. 15).

*Implications for Society and Social and Emotional Implications for Children*

The argument is frequently made that laws shape people's understanding of what is 'real' and acceptable, and hence, that discriminatory laws directly and indirectly perpetuate prejudice and negative attitudes and behaviours towards children and parents in same-sex parented families. In addition to the impact on those individuals discriminated against, issues to do with society are frequently raised by those advocating reform. The VLRC articulated the link between laws, society and the treatment and experiences of children and families: "Non-recognition of the role and status of the non-birth mother is equivalent to non-recognition of the reality of the child's family structure. This in turn reinforces the social stigma that same-sex parents and their children experience" (p. 16); "legal recognition of diverse family types is an important way of countering discrimination" (p. 12); and "legal recognition serves a very important symbolic purpose" (p. 17, 2005). They concluded that current Victorian law "is lagging behind social and attitudinal change and is contributing to ongoing stigmatisation of children born to same-sex couples" (2005, p. 17). In a similar vein, The LPPG wrote the following to the VLRC:

The law and related policies and practices shape people's world view and understandings, as well as having practical implications... Currently, the (prejudiced and inaccurate) message people are receiving from the existence of these discriminatory laws is that families such as ours should be discouraged from even existing, and that when families such as ours do exist, they should not be recognised. [These laws] make it harder for or more awkward for some people to include us or interact with us and our children, and can make some people feel that they can or should treat us with a lack of respect or as though we are invisible

or deficient. Clearly, this state of affairs is detrimental to us, to our children and to our broader society (2004, p. 16).

Many contributors to the *Conceiving the Family* project gave examples of how the lack of legal parental recognition of the non-birth mother as the child's mother and the related lack of legal recognition of family relationships between the child and the extended family members can hinder some people, including some extended family members, recognising the non-birth mother as a parent; the family as a family; and themselves as, for example, the child's grandparents.

Although some research indicates that the children of lesbian parents are not teased more overall than other children (e.g. Tasker & Golombok, 1997; Vanfraussen et al., 2002), many children of same-sex parents, like their parents, experience discrimination and stigmatisation. For example, researchers from the National Lesbian Family Study in the USA found that by the age of ten, 43% of the children in 78 planned lesbian-parented families had experienced some form of discrimination or homophobia from peers or teachers (Gartrell et al., 2005). In Australian research with children of same-sex parents, 44% of the Grade 3-6 children had experienced teasing, bullying or derogatory language in relation to their family, and in Years 7 - 10, 45% had been bullied, with behaviours "rang[ing] from verbal abuse, teasing, and joking to physical and sexual violence" (Ray & Gregory, 2001, p. 8). Research indicates that such experiences can make it more difficult and less comfortable for some children to talk about their families with their peers, and can cause other difficulties, and that they, like their parents, develop strategies aimed at preventing being stigmatised or treated poorly, including making choices about who they talk about their family with, who they invite home, and not correcting incorrect assumptions that people make about their parents (e.g. Ray & Gregory, 2001; Lindsay et al., 2007).

Many participants in the *Conceiving the Family* project gave moving accounts of children's reactions to negativity about and non-recognition of their family. Emotions reported included "sadness", "distress", "anger", "anxiety", and "apprehension". In relation to Birth Certificates specifically, one Victorian mother wrote to the VLRC stating:

[T]he ramifications of the current laws will be felt right through our beautiful children's lives. The consequences will be felt by them ... more than

they'll be felt by us as parents – and beyond when they turn 18. When they apply for a passport, get a driver's license, open a bank account, get married ... at all these significant moments of their lives, and many times in between, their Birth Certificates will remind them that they are not O.K., that their family situation [in the eyes of the law] was and is still not O.K. ('AB' in PLP, 2004 p. 17).

Not surprisingly, the VLRC reported:

Although the commission received numerous submissions that described strong and happy families that are generally respected and supported within their communities and by health professionals, teachers and child carers, we also received many accounts of the social, emotional and symbolic effects on the parents and the child of the non-recognition of the non-birth mother (2005, p. 15).

### **The Benefits of Legal Recognition of Non-Birth Mothers as Mothers**

As a corollary to the above, and as reported by the participants in the *Conceiving the Family* project who resided in the ACT and in WA, the benefits to children and their families of having a non-birth mother recognised as a parent in the same way that she would be if she was male are multiple, inter-linked and significant. Contributors to the research invariably described the effects and significance of non-discriminatory parentage laws, for them and their children, in terms such as "huge", "massive", "pivotal", "central", "fundamental", "fantastic", "indescribable", "overwhelming", "intangibly helpful", and "incredibly important." The legal, financial and practical benefits are long-term and day-to-day, myriad, and are largely the absence of the disadvantages and difficulties that result from discriminatory legislation (as previously outlined). As evident in the following quotes from a couple who live in one of the 'recognition states', the legal, financial, practical, and emotional implications, the implications for society, and the social and emotional implications for children and parents are inter-related.

Kelly: It's important to us to both be on the birth certificate.

Sally: Yeah – it *really* is important to us.

Kelly: That's *really* important to us.

Sally: Really important to us. Not just symbolic reasons, but medical, legal/

Kelly: Legal. Practical.

Sally: Legal. *All* of those things. *Everything*.

Kelly: It's for the protection of the child.... The children have that right...

Sally: It is about being acknowledged as/

Kelly: As a family...

Sally: It's the future and safety of my child...

Kelly: It brings legitimacy to it.

Sally: Do I need legitimacy? No, I don't really. But my child does. And the hospital up the road does. Or the neighbours do, so it will make them feel better.

### *Implications for Society and Social and Emotional Implications for Children*

In their submissions to the VLRC, groups advocating non-discriminatory parentage laws emphasised the role of laws in shaping attitudes and discourses:

When the law clearly acknowledges both mothers as parents, this will lead to increased social recognition of the validity of our relationships and family structures... We believe that to have parity with heterosexual parents will help us to ensure that our children have more positive experiences in a range of social settings, such as kindergartens, schools and clubs... Equal familial status sends a powerfully positive message to all social institutions that have an influence on our children's lives... The law has consistently addressed issues of discrimination of race and gender despite opposition from some sections of the community. This has played an important role in addressing injustice and in creating a more harmonious and equal society (LPPG, 2004, p. 4; p. 9).

Legal reform [would provide] a strong message to the community that the family of a child of lesbians is as legitimate and deserving of support and protection as any other. The flow-on effects into social attitudes are as important ... as the legal reform itself, particularly in terms of the acceptance (or otherwise) our children and future children will experience in the broader community (PLP, 2004, p. 20).

Indeed, many mothers and service providers from the ACT and WA reported that significant overt and subtle social implications follow from the legislative amendments, and view them as a

central tool in shaping people's recognition of the families of same-sex parents as 'real' families:

The law has a certain power to change how we think about things (Maria).

[It has changed] the way we are perceived (Polly).

I think we get to have this legal change because the majority have got there socially. And this change will probably help get some more people there, or get them even further there (Lindsay).

Women reported experiencing a greater sense of support, respect and recognition as a family arising (at least in part) from this legal recognition, including from extended family members, and other people in the community. This was spoken about as contributing to a greater sense of security, inclusion, and ease for many mothers and their children. Typical comments included:

We are more at ease. Much more at ease. No piece of paper can make you feel like a mother, but, what it can do is tell society that you are the mother (Kelly).

We feel very secure... We are now secure... We can just get on with things (Polly).

Some key relationships are reported to be shaped in ways that are beneficial to children by parentage laws that recognise the child's non-birth mother as his or her mother, and the family as a family. For example, in relation to known sperm providers, laws which recognise non-birth mothers are believed by many to reduce the likelihood of conflict between lesbian women and known sperm providers (e.g. see Millbank, 2003; Short, 2007). For example: The Victorian Gay and Lesbian Rights Lobby wrote to the VLRC that "the lack of legal recognition of the non-birth mother's relationship with the child ... contributes to the likelihood of conflict with the known sperm donor" (2004, p.11). Many contributors from the 'recognition' states emphasised this as an important benefit for children (and their parents) of the legislative changes. Typical comments were:

Morag: It builds a foundation for the expectation around the [biological] father's involvement, too. ... He would be quite clear that he *wouldn't* be a parent and that we both *are*..

Hester: ...that legal certainty is really, really important.

Many reported that having both mothers recognised in law as full legal mothers, and on the birth certificate, can assist extended family members to recognise the family *as* a family, and the non-birth mother *as* a mother, and the non-birth mother's parents to recognise *themselves* as part of the child's family. Examples included:

That the State recognises that both women are the parents is *crucial* in some relationships and to some families (Sally).

It shaped them as the child's family unit, and as the primary unit, the child's family. ...She made sure that the wider family knew that they were the family... She showed them the birth certificate (Morag).

Although the changes spoken about were primarily about how the family is treated by and interacts with people in the extended family or outside the family, effects of the parentage recognition of the non-birth mother are also experienced by some mothers in the way they relate to each other as parents and as a couple. For example, Kate, a non-birth mother said: "It has caused a huge effect for us. ... I certainly believe that we would not be such a relaxed and efficient partnership if she was on the birth certificate and I wasn't."

Not surprisingly, participants reported that being part of a family which is recognised in the law can assist children, along with their parents, to feel more "at ease", "respected", "accepted", and "acceptable", and less likely to feel the need to be "vigilant" and "brave" or be "selective" about who to speak about the family with. A lawyer from the ACT commented that since the change in parentage laws, "lesbian women and their kids have come out into the sunshine [and] are so much more visible and seemingly at ease". Mothers reported that having both mothers recognised as parents in the law adds significant weight to the reassurance that they can give their children that people who are negative about their family, or who might regard it as not a 'real' family or their non-birth mother as not their 'real' mother are "prejudiced", "old-fashioned", "out-of-step" and at odds with what is accepted by society.

In our society, a birth certificate is a document that not only has practical implications, but to many, has symbolic and emotional implications. A mother from a 'recognition' state said the following about the importance to children of couples of having the birth certificate include both parents:

That document says that, from a political, from a legislative, from a social perspective, it says who you are; it says what your history is; where you have come from; who is going to take care of you; it has where both parents are born ... and who your siblings are. ... I think you can feel so supported having a founding document which gives you that sense. ... It's your beginning. It's your origins. It creates a place for you in the world (Hester).

Many mothers mentioned that the indirect benefits to children of the non-discriminatory laws include having parents who are less likely to be intermittently distracted by the difficulties, worry, and sadness that can be experienced by parents who are not legally recognised as parents, and the navigation and negotiation that is required as a result of this, and who are, instead, feeling more "recognised", "at ease", "confident", "secure", and able to just "get on with daily life".

### Conclusions

This material makes it clear that the contention that maintaining or even extending discriminatory family-related laws is in children's 'best interests' is incorrect. Indeed, such a contention would be risible, if the implications of such a view (and its embodiment in laws) were not so serious, and deleterious. It is not surprising that there are increasing reports of Australian lesbian couples from the 'non-recognition' States travelling to the 'recognition' States and Territories for the births of their children, as well as to live longer term. For example, one woman recently wrote to the Human Rights and Equal Opportunity Commission:

My partner and I feel so strongly about the absence of official acknowledgement of the parenthood of the non-biological mother that we are planning to travel to Canberra from Victoria to have our baby, if it's possible, so that our child will have both his [sic] parents' names on the birth certificate. (Submission, 2006).

That in 2007 many Australian women need to travel interstate to give birth so that their children will be able to have their parents on their birth certificate and the significant benefits that that entails is shameful. Debates about the legal recognition of parentage of children and related debates about families will continue. Information such as that included in this article should make it clear that Australians who care about the well-being of children should be keen to see the remaining discriminatory parentage and other family-related laws amended at the earliest opportunity.

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## **FISHING FOR TADDIES: EMOTION WORK IN LESBIAN WOMEN'S SEARCH FOR SPERM DONORS IN SOUTH AUSTRALIA**

MARGIE RIPPER

### **Abstract**

*This article focuses on one aspect of the experience of lesbian conception through donor insemination that has received scant attention in the literature about lesbian family formation. That focus is upon the 'emotion work' that goes into the negotiations with potential sperm donors by lesbians who seek to establish their families with known donors. The article speaks to a number of theoretical, practical and pragmatic debates currently under consideration in the fields of lesbian studies, law, reproductive technologies (ART), social psychology and the sociology of emotions. The analysis utilises the concept of 'emotion work' and assesses its usefulness in describing the experience of negotiating sperm donation with known donors. The data to which the analysis refers is one aspect of a wider study of lesbian conception strategies in South Australia (SA), a legislature in which access to ART is restricted to medically infertile women. In SA, fertile lesbian (and heterosexual) women have, by necessity, higher rates of DIY insemination, and apparently higher reliance on known donors than is the case in less restrictive legislatures. This article draws on interviews with lesbians who had sought known donors and either conceived children, or attempted to do so in the recent past or who were currently planning or in the midst of the process of seeking a donor.*

### **Introduction**

As has been widely observed in the academic and popular literature, the past two decades have witnessed an upsurge in the number of lesbians having children. So widespread is this development that it has been referred to as a 'gayby' boom (Dunne, 2000, p. 12). This term refers to a wider phenomena than is addressed in my study as it includes family formation by lesbian, gay male, transgender and bisexual (LGTB) people through adoption, surrogacy, and IVF as well as by

donor insemination (DI). What is 'new' is not that LGTB people are becoming parents; there have always been lesbian mothers (and LGTB parents)<sup>1</sup> raising children conceived during previous heterosexual relationships or encounters. What is different about this upsurge in LGTB parenting is that individuals and couples are purposely creating families (and themselves as parents) within their same sex relationships.

The majority of the academic research studies on lesbian family formation emanate from the United States and focus on the quality of lesbian parenting within a discourse of 'best interests of the child'. Typically, the comparative reference point for many of these studies are the children raised by heterosexual couples (see Baetens & Brewaeys, 2001, p. 214-216 for one overview). There is a smaller body of academic work on lesbian conception strategies, most of which focuses on decision making, the structure and parenting styles in same-sex headed families, the factors leading to the choice of known or anonymous donor and the associated issue of the level of involvement (if any) of the donor in the lives of child/ren conceived of his donation.<sup>2</sup>

Within the growing library of 'self-help' publications and online information on LGTB parenting the pros and cons of these options are canvassed. However, conception options are inevitably constrained by the socio-legal context in which they are located, an observation that is increasingly being explored by researchers including Almack

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<sup>1</sup> Although much that can be said about women parenting in same sex relationships may well be true for gay men, transgender and bisexual people, this study draws only on the experience of lesbian women and from this point on will refer to lesbian rather than LGTB parents.

<sup>2</sup> Throughout this article I maintain a distinction between 'donor' and 'father', in which the latter refers to active involvement by men in the parenting of the children conceived from their sperm donation.

(2006), Pennings (2000), Ryan-Flood (2005) and Short (2006a). However, in many earlier studies the constraints of the socio-legal context were not always recognised. For example, publications from the United States typically assume that sperm is commercially available within a highly privatised health care system on which there are comparatively few regulatory constraints.

There is not a large body of Australian research on lesbian family formation, however important work has been published by Dempsey (2004), Kirkman (2004), Short (2006a; 2007), and McNair (2002). Additionally there have been three *Rainbow Families Conferences* held since 2003, which have provided forums for exchange of information based on experience and research. Also there are several 'self help' resources available through GLTB networks which cover the issues mentioned above and which also attempt to help people understand and negotiate the different regulatory environments in the various states and territories. Within the academic and self-help literature both here and abroad, some consideration has been given to the factors that impact on choice of donor (for example Short 2006b, Almack 2006). However even within this literature there is very little detailed consideration of the process of donor recruitment, and the emotional impact that it involves. My focus is upon the emotional and relational dimensions of this process and its impacts on the prospective parents and those who they bring into their confidence. In an attempt to understand the dynamics that are at play in these negotiations I utilise the concept of 'emotion work' and critically reflect on its adequacy in understanding the complexity of the negotiation process.

### Emotion Work

The concept of emotion work was first utilised as a sociological term, but has since gained currency in popular parlance albeit with a somewhat different meaning. The American industrial sociologist Arlie Hochschild first used the term 'emotion work' to refer to the act of consciously evoking or suppressing feelings/emotions to conform to what the person deems appropriate or desirable in a particular context (1979, p. 558). Her work built upon the interactionist school within sociology and social psychology

(particularly Irving Goffman) to develop the idea that emotions are not simple (or inevitable) reactions to stimuli, but are embedded in complex social context. More importantly she argues that we have the capacity to actively 'manage' our emotions; in her words, we have the "human capacity for, if not the actual habit of, reflecting on and shaping inner feelings, a habit itself distributed variously across time, age, class and locale" (1979, p. 557) and, I would suggest, across gender.

Hochschild draws on examples of the effort that people deliberately put into feeling and expressing appropriate emotions - not just on performing or pretending these emotions, but on creating those feelings within themselves. Examples that Hochschild provides include: "I *tried* not to feel disappointed, ... I *wanted* to feel grateful, I *psyched myself up*, I *had the right* to feel jealous, I *should have* felt guilty" (1979, p. 561-564, emphases added). Such examples indicate two aspects of emotion work: Firstly, its contextual nature, which is evident in expressions such as 'should have' and 'my rights', which demonstrate the speaker's awareness of what Hochschild refers to as 'feeling rules'<sup>3</sup> which provide a normative framework for what one 'ought' to feel. Secondly is the effortful character of emotion work: it involves the conscious attempt to evoke appropriate emotion. Hochschild emphasises that "emotion work" refers to the effort - the act of trying - and not to the outcome, which may or may not be successful [in evoking or suppressing the particular feeling]" (1979, p. 561).

In her later work, Hochschild (1983) moved beyond her original conceptualisation of emotion work to focus on the negative impact of its commodification in the labour market as 'emotional labour' (Bolton & Boyd, 2003). I am not engaging with the concept of emotional labour - which relates to the commercialisation of human feeling - but rather I am utilising the earlier concept of emotion work which is not constrained to market relationships.

<sup>3</sup> Hochschild's expands on what she means by 'rules' in a way that avoids the prescriptive determinist flavour that the term evokes. For her, "feeling rules" delineate the zone within which one is permitted to feel - or be free of - certain feelings. These rules also frame the possibility for boldly breaking or subverting the particular convention (1979, p. 565).

The evocative term 'emotion work' has increasingly made its way into popular parlance to refer to the effort and skill that is expended in initiating, clarifying and resolving differences of feeling within relationships in such a way as to care for the emotional well-being of others. This sort of relationship 'work' is archetypically undertaken by women. The popular conceptualisation of emotion work is becoming increasingly common in academic work of social psychologists and some sociologists of emotion. For example Rebecca Erickson (2005) uses emotion work to refer to "activities which are concerned with the enhancement of others' emotional well-being and with the provision of emotional support" (Erickson, 2005, p. 338).

In the following analysis of lesbians' experiences of seeking known donors I identify aspects of both Hochschild's and Erickson's/popular meanings of emotion work and critically reflect on the effects that undertaking relationship 'work' has on the well-being of the women concerned.

### **The Study and the SA Context in which it is Being Conducted**

This paper draws on in depth interviews which I conducted in 2006 with forty-one South Australian lesbians who have conceived children or are planning to do so or have attempted to do so in the recent past. The aim of the study is to document the impact of the particular legal and policy context which shapes lesbians' conception options within South Australia (SA). In relation to lesbian family formation, the legal and institutional constraints in SA include:

- Same sex couples are precluded from adoption. (*Adoptions Act 1988*)
- Assisted Reproductive Services are restricted to medically infertile patients. (*Reproductive Technologies (Clinical Practices) Act (1988)*).
- Birth registration presumes heterosexual parenting (or sole mothering) with space provided only to register the birth mother and the father (if known) but without a facility to register a 'non-birth' mother. (*Births, Deaths and Marriages Registration Regulations 1996.*)
- Mothering is recognised only through birth (or adoption). Non-birth motherhood has no legal standing (*Family Relationships Act 1975*)

- There is no commercial availability of sperm in South Australia and the *Reproductive Technologies (Clinical Practices) Act (1988)* which regulates ART requires that doctors be licenced to provide insemination services.

- It is illegal to import sperm into Australia. Reproductive assistance that is available to lesbians in South Australia includes.

- The Australian Sperm Donor Register which is an online service that facilitates contact between men willing to donate sperm and potential recipients.

- Two active support networks which provide legal and practical advice and support to gay and lesbian parents and prospective parents.

- Assisted reproductive clinical services for women who meet the diagnostic criteria of medical infertility.

This paper focuses on accounts given by 37 lesbians of the process of seeking known donors. Of the 41 participants in the *Lesbian Conception Study*, 28 had sought known donors and a further 9 intended to do so. The dynamics and the process of negotiation differed depending on whether the men concerned were self-identified sperm donors or not. Self-identified donors are those who have taken the initiative and registered as donors (typically through the sperm donor register or less commonly through advertising on-line or in the print media). Importantly these men were expecting to be contacted by potential recipients and therefore prepared for the discussions this involved. The overwhelming majority of men who the participants had approached to donate were not self-identified donors but were men known to the women (and/or someone acting on their behalf) who were approached with the request to consider donating to that specific woman/couple. The implications of this distinction are taken up throughout this paper through the voices of the women concerned.

### **Fishing for Taddies: Lesbians Experience of Seeking Known Donors**

The following analysis draws in detail upon the accounts of several couples whose experience reflects themes common to all the participants who sought known donors. Three overarching findings characterise the stories:

1. Virtually all participants started with an 'ideal' model of donation and the structure of the family they sought to create. In almost all cases they were required to modify and/or abandon their ideal in the light of various constraints.
2. The process of deciding and recruiting sperm donors was typically protracted and fraught with challenges.
3. Negotiating sperm donation required complex emotion work between the couple as well as with potential donors and significant others.

### *Negotiating the 'Ideal'*

Not everyone who wanted to conceive with a known donor achieved this, and others 'settled' for a known donor only after exhausting all other preferred options. However, regardless of how they came to be seeking a known donor, all the participants were able to describe an 'ideal' that they started out with. Not surprisingly, this ideal was rarely identical between the couple but was usually a consensus position arrived at through negotiation and compromise - often over a number of years. In all cases the discussions included consideration of who would conceive, how many children, what balance and share of mothering and employment responsibilities was preferred and how this would be achieved, what role (if any) the donor would have in relation to the child(ren), how a donor would be found, and what (if any) options were out of the question.

Other discussions about family formation typically included: whether to formalise a pre-conception agreement with the donor, preferred ways of naming the family and each mother's term of address, the birth certificate and the implications of having the donor named as 'father' or not, wills, financial responsibilities and agreements, custody in the event of death or the breakdown of the couple's relationship, the challenges of same sex parenting in a homophobic society, the ways of informing children of the story of their conception, and the way the sperm provider would be referred to. A number of couples also set in place 'review' strategies to limit the amount of time, finances and/or emotional resources they were willing to expend to achieve pregnancy. Establishing these limits recognised the stress likely to be placed on the relationship by a protracted

and potentially obsessive focus upon conceiving. Jane and Sandy explained the agreement that they came to:

Jane: For me i[having children] was not worth risking the relationship, so Sandy had the final say, she could say "enough is enough" and I'd stand by that. ...A baby wasn't the be-all-and-end-all. We didn't want a baby at all costs".

Sandy: That was easier said than done though wasn't it? You [Jane] got pretty into it. It was hard to keep perspective.... It was full on.

Although Jane and Sandy had initially wanted a known donor they, like most couples, had to modify their ideal when it proved too difficult to find a donor. After two years of approaching family and friends they'd found Luke, a lifelong friend of Sandy's younger brother. However, after an eight-month period of pre-conception discussions, medical checks and formalising a parenting agreement with Luke, Jane undertook thirteen unsuccessful insemination attempts over six consecutive menstrual cycles. Depressed by this outcome they organised a sperm motility test, which showed that Luke's sperm 'swam in circles'. This proved to be one of the most difficult situations for Sandy and Jane to deal with. Luke was a young man (mid-twenties) and they, and he, had presumed that he was fertile. When Sandy and Jane received the test results from their doctor (who had ordered the tests on their behalf) they were faced with the task of breaking the news of his infertility to Luke. To do this they had to put aside their own feelings in order to be sensitive and supportive of Luke who was initially disbelieving, then devastated, when he realised he would "never be a dad". Sandy and Jane felt empathic despite their own emotions of intense disappointment and frustration about the time that they'd 'wasted' before having the sperm tested. Sandy also found herself feeling angry (in retrospect) about the times where Luke had expressed surprise at Jane's 'failure' to conceive. Sandy reflected:

Sandy: I started thinking about those couple of that times he'd said to me, -'cos it was me who would ring him each time,- and [he said] something like "Why's it taking so long?" as if it was Jane's fault, or [something wrong with] how we were doing [the insemination]. And

you know, what was weird was that I must have started to think that myself because [although] I didn't tell Jane [what Luke had said], but it was after that that I really got into researching it all and doing everything possible we'd heard of [to aid conception]. Diet, exercise, no chemicals in the house, naturopathy and meditation, and then there were a whole lot things about doing [the insemination], letting the sperm sort of settle first, standing on you head - well not quite - but legs up in the air, bum propped up on a pillow, soft lights, music, all relaxed and calm, ... it was pretty desperate.

Jane: Desperate calmness! (laughs)

Margie: And none of this would be much use with Luke's sperm huh?

Sandy: No, but I realised that even though I'd started thinking it might be Jane too [Jane's fertility problem] I didn't mention it to her, and so then I felt *so* disloyal and angry with myself as well as [with] Luke. I felt like saying "See it was you all along" but it's not his fault. It was even worse for him, I shouldn't have felt that.

Jane: But you were great with him really! Sympathetic, ... caring... Really he would never have known, ... You did well. We did well!

Jane and Sandy are involved in emotion work in both senses of the term; they actively suppress and evoke emotion in the way that Hochschild identified. Sandy felt that she 'should not' have doubted Jane's fertility and felt 'disloyal' for having those thoughts. Both Sandy and Jane evoked sympathy for Luke when they felt anger, disappointment and frustration. Jane's comment "We did well!" recognises that effort was required to express appropriate empathy for Luke, but her positive tone implies that it was worthwhile effort to achieve the appropriate emotional response.

#### *Perpetual Re-Negotiation of the Ideal*

Like most participants in the study, Jane and Sandy's search for a known donor was a far longer, more challenging and emotionally exhausting process than they had expected. Like most couples they had to modify their ideal when it became impossible to achieve. Their ideal was a donor who they trusted, whose identity could be known to the child/ren, who was willing to be contacted when and if the child/ren wanted, but who

would not be named on the birth certificate and who would play no role in the children's day to day life. Sandy and Jane felt that by choosing someone who they knew they could trust him to stick to the agreement in a way that could not be ensured with a 'stranger' (such as a donor recruited through the donor register or advertisement). They also felt daunted and embarrassed at the thought of discussing intimate personal matters with someone who they did not know. So after their unsuccessful donor insemination at home, and the exhaustion of contacts with other possible known donors, they opted to attend an interstate Fertility Clinic even though this meant having an anonymous donor.

The interstate clinic was far more expensive and inconvenient, however for them this was preferable because it meant that the clinic brokered the arrangement with the donor - they screened potential donors, and managed the collection of biographical and medical information. Importantly for Sandy and Jane, undergoing clinic based donor insemination provided the certainty that they sought that the donor was not a father in the sense of having parenting rights or responsibilities.

A major issue raised by participants in this study was the difficulty in having the parenting status of non-birth mothers acknowledged legally. Although a full exploration of this problem is beyond the scope of this paper, Sandy and Jane's strategy is illustrative of the lengths to which couples went to subvert South Australian legal constraints. They organised to move interstate temporarily just prior to their baby's birth, to a jurisdiction that would allow both Jane and Sandy to be registered on the birth certificate.

#### *Managing Hearts, Managing Relationships*

Many participants spoke of the search for a suitable donor as a roller coaster of emotions. The highs and lows were associated with hopes raised and dashed as one after another potential donor was approached only to decline or to prove to be unsuitable. Sometimes further strain was placed on the couple's relationship if the women differed in their assessment of somebody's suitability.

Most couples were clear that they would only proceed with a particular donor if both were in full agreement. This commitment proved difficult to adhere to in cases where women within a couple drew on different priorities in making their judgement. For some the demeanour and/or values of the donor were important, and for others, character traits were irrelevant. Jennifer reflected on this difference in priorities between herself and her partner Lee:

Jennifer: For me it's important that they're a good person but Lee thought that that was crazy, her idea is that kids will be good people with the love [we give them] and the way we are with them, and with each other. And I agree, ...but, but for me it was important what he was like. I couldn't really explain it rationally. It caused problems for a while.

Margie: Tell me about that.

Jennifer: Hmm ... well, it became a bit of an issue. Lee felt, I don't know,... sort of almost jealous or something. If I said that I liked them, or their traits or something. And when I was trying to explain I made it worse, 'cos I said didn't want someone's sperm inside me if I thought they were creepy or something. She, well ... in the end she came out with it, that it was about me choosing him, choosing like I was choosing a husband or something. For her sperm was sperm. I still can't really explain [why I felt it was important].

Jennifer went on to say that she thought that Lee was particularly sensitive because she was still dealing with her own disappointment about not being able to have a child herself. Lee and Jennifer's ideal was to have two children with the assistance of the same donor and for each to carry one. Lee, being almost six years older than Jennifer, intended to carry the first pregnancy. However when Lee started to chart her rather erratic menstrual cycles (almost a year before they intended to conceive), it eventuated that she rarely ovulated and was diagnosed as 'perimenopausal'. Jennifer described her reaction to Lee's infertility as having her head "in two places at once":

[I felt] devastated - for Lee. It took her a long time to accept it. She felt so bad, bad about missing out and bad because she thought that she shouldn't feel so bad. [She felt that she shouldn't be feeling it's the end of the world if you can't be a mother

biologically. ... So all that time she was going through this and I was thinking with my head in two places at once. ... I was sad - for Lee, and our whole plan was thrown out. And it was really hard for Lee. ... But at the same time there was this little voice in my head "Oh my god, it's my turn!" sort of excitement -which wasn't fair on Lee, so I had to be careful about showing that.

In addition to the complexities of the emotion work done *within* couples a number of participants spoke of the 'work' that they did on *other* people's relationships in the course of negotiating with potential donors and in discussing their conception plans with their family, particularly with parents.

Louisa and Angela underwent a five-year process with first one and then another attempting to conceive with home-based donor insemination from known donors, and undergoing treatment at an interstate clinic, before they found the donor with whom they had their family. Louisa described the discussions that they had with a series of potential donors as being tantamount to doing 'couples counselling' with them. Again and again, they found themselves facilitating discussions with a potential donor and/or his partner about their relationship, their attitude to children, their ideas about fidelity and parenthood. Issues ranged from the intensely personal "We had to ask him to avoid ejaculating for a couple of days before the insemination" or establishing the ground rules for he and his partner's monogamy and/or safe sex whilst trying to conceive, through to the hypothetical, for example, about whether he is likely to be a sperm donor for others in the future or to have other children, and what he might disclose to future partner/children about children born of his sperm donation. Often the negotiations raised profound issues for the men which were discussed through to resolution, for which the men expressed enormous gratitude to Louisa and Angela, but which too often led them to reconsider and decline to donate. Louisa recalled two examples amongst many:

We asked another friend, and he went through the whole thing with us [discussions] and as a result he ended up having a vasectomy. I think it brought it to a head for him that he was still fertile, and they didn't want any more children. He was a heterosexual friend, they had two. But he was really willing and happy to donate, but



she didn't like the idea of it at all. So in the end it was helpful for them. And [like a number of other potential donors who declined], they were very supportive of us, [saying] 'You'll be wonderful parents' and [that they] were honoured to be asked and all that, but no, [they] can't do it.

So then we asked another friend from the past, and we went through the whole [discussions] again. And he was here crying in our kitchen because it brought up for him that he has a child who he does not live with. So then he turned around and decided no because he wasn't emotionally stable enough. And we thought "We don't need you to be emotionally stable, we just need your sperm".

The intensity of these negotiations became so emotionally draining that Louisa and Angela eventually took into their confidence another lesbian couple who had a wider circle of male friends and that couple agreed to approach potential donors on their behalf. Quite a number of participants in the study followed a similar transition as Louisa and Angela from initially wanting their quest to remain a completely private matter, to having trusted others seek donors on their behalf. The desire for privacy was partly to protect themselves in case they were not successful and partly so that they could maintain some control over how widely their desire to have a family became a topic of discussion for others.

Typically as couples reached the outer limits of their own circle of potential donors, many participants turned to friends, siblings, or trusted members of gay and lesbian parenting organisations to seek out donors on their behalf. As Louisa explained "At least it wasn't us 'out there', we felt relieved that it wasn't us doing the asking". The decision to involve others in the search for donors was uniformly felt as a huge relief. For many couples this relief was partly an effect of lifting the veil of silence somewhat. In the course of the interviews participants identified several negative consequences of having kept tight secrecy about their attempts to conceive. One was the risk of becoming isolated by limiting the sources of support to each other. Another was the lack of an outside 'reality check' and the danger of losing perspective on the place of children in their lives. A number of participants described themselves or their partner as

becoming obsessed, desperate, or of their lives becoming ruled by the quest to conceive. Louisa described the two-year period of insemination attempts that Angela underwent:

Every day in your life was accounted for because it's either day one or day two or whatever. And the trauma every time you'd do an insemination is awful, and we would try and do two inseminations each cycle, and that's logistically a nightmare what with working, and the donor having to be available and all this kind of stuff. And then, um, then you're then counting again, and hoping, until bleeding starts. And then it's "Ohh No"! It was hard, really hard.

Also, as more and more potential donors were approached, some women felt uncomfortable about the imbalance of having not disclosed to their friends and/or their closest family members something that they had discussed in detail with an increasing number of Adelaide men and their partners who were not necessarily close acquaintances. This combination of having intimate discussions with relative strangers about something as important as having children, whilst avoiding those discussions with most friends and close relatives, was a painful situation for many women. This was compounded by the practical concern for some participants that their friends in the gay and lesbian community would hear about their plans indirectly. The decision to involve trusted others in the search for a donor was therefore both a relief and an additional source of anxiety. The circle of confidentiality broadened as each potential donor discussed the possibility with their partners and/or confidants, and so too did the possibility (or sense) that their search had become public information. For those donors and/or recipients who did not want their identity to be a matter of public knowledge, the involvement of third parties was a source of some anxiety.

Eileen and Pauline's experience was similar to that of Louisa and Angela, though not as protracted. However, after a series of major disappointments in approaching friends, they decided to "put [them]selves out there" in search of a donor. They described three years of negotiating with eight different potential donors, which ended only recently when they found a donor through a friend. They described the heights and depths of

emotion associated with each contact, particularly in coming to terms with their closest male friend's decision to decline, after having initially agreed. He had long known of their desire to have children and always expected that they would ask him. They had had 'set their hearts on' him being their donor. They felt devastated and rejected when he declined even though they recognised and honoured his right to make that decision.

This possibility of feeling judged and rejected is inherent in the process of seeking a known donor. Being approached invites the potential donor to assess the lesbian couple's suitability as mothers. With known donation, potential donors are not just being asked the 'in principle' question "Would you donate sperm?" or even "Would you donate sperm to a lesbian couple?", but "Would you donate sperm to me/us? - to this particular lesbian couple?". This question implicitly invites the potential donor to judge the suitability of the couple as mothers. Refusal/rejection of the invitation to be a donor always carries the potential to be interpreted as a judgement on the women's (un)suitability for motherhood and/or a negative assessment of their relationship as providing a suitable family environment. Ironically comments made by men in declining to donate such as "If I was ever to [donate sperm], it would be to you two" and "I think you'd be great mums" reassure the couple that they have been judged worthy, but in doing so reveals the power of the donor to judge otherwise.

Those who, like Eileen and Pauline, chose to 'put themselves out there' and utilise their networks to find a donor, were acutely aware that this brought with it the possibility they could not necessarily know who or how many people might come to know the identity of their donor. This possibility requires a commitment between the couple and their donor to ongoing discussions about managing the disclosure of his identity, especially in relation to children, either those born of the donation or his (if any). It is particularly challenging when known donors have some level of social contact with the child/ren conceived of their donation. It takes ongoing work to resist the tendency to conflate the roles of donor and father/parent. Although some participants purposefully created a 'donor/dad' relationship where ongoing parenting responsibilities and

recognition was extended to the donor, in most cases the women did not want a third person/parent in their relationship, and felt strongly that the donor relationship did not constitute fatherhood in any meaningful sense.

## Conclusion

There are many levels of emotion 'work' involved in lesbian women's search for known donors. Hochschild's notion of 'managing' the heart by actively evoking and suppressing feelings is evident in many of the negotiations between the participants, as well as in discussions with potential donors and family members. Hochschild implies that the requirement to manage emotions in this way is inherently detrimental; that it produces a form of alienation from one's self. This does not accord with the experience of the participants in this study who on the whole found that the emotion work that is involved in negotiating with partner and potential donor was inherently stressful but also productive. In many cases it strengthened bonds and forged strong relationships, although in others it strained or led to the end of relationships with friends who had been asked to donate.

The complexity of emotions that are involved in negotiating sperm donation are not adequately captured in Hochschild's concept of emotion work. The more common sense meaning of this term (which involves purposeful effort to enhance the emotional wellbeing of others) resonates through the narratives in this study. Women took the lead in this work, however men did so too. Even when declining a couple's request to donate, men typically affirmed the couple in their quest to construct their family. This suggests that much could be learned about masculinities and emotion work from a qualitative study with known donors. Such a study with men who do not self-identify as sperm donors would also extend our knowledge of the factors that known donors weigh in deciding whether to become a donor for a particular couple.

This study confirms that both macro and micro factors intertwine to shape lesbian women's conception options and their experience of finding a donor. The regulatory environment in South Australia

makes seeking a known donor the only (or preferred) option for many women. This contextual constraint results in a high level of emotion work being required to negotiate a sperm donor relationship and to shape the ongoing relationships that result from known donor insemination. The outcome of this emotion work is not necessarily, or always, negative, however it is inescapable and for many women it is experienced as an unreasonable burden.

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## THE SUBJECTIVE EXPERIENCE OF THE LESBIAN (M)OTHER: AN EXPLORATION OF THE CONSTRUCTION OF LESBIAN MATERNAL IDENTITY

LOUISE DU CHESNE<sup>1</sup> & BEN BRADLEY

### Abstract

*This study explored the subjective experience of lesbian non-birth mothers as they constructed their maternal identity. A purposive sampling strategy of 7 lesbian non-birth mothers, ranging in age from 35 to 73 years, participated in audio taped interviews. Interpretive Phenomenological Analysis of data paid particular attention to how participants negotiated constitutive binaries of mother/father in the process of socially constructing their role. The study found that non-birth mothers position themselves as the same and different through challenging and sometimes sidestepping either/or binary oppositions of mother and father. The greatest opposition to their role often came from within their own family of origin. Through the day-to-day work of discursively creating their maternal identity, lesbian co-mothers are the front-runners of a new form of 21<sup>st</sup> century family.*

### Introduction

The 1980's saw the beginnings of an increasingly visible lesbian baby boom in Western industrialised countries including Australia, the United States, and the United Kingdom (Patterson, 2001). By the turn of the century there were between 1.5 million and 5 million lesbian mothers living with their children as a family unit in the United States alone (Hequembourg & Farrell, 1999; Perrin, 2002). In Australia, surveys indicate that 20 per cent of lesbians have children and a further 40 per cent want to have children in the near future (Perlesz & McNair, 2004). As such, continued research on lesbian-headed families would appear both timely and important.

In this paper I focus specifically on the experience and social construction of the non-birth mother<sup>2</sup> within planned lesbian-parented

families. In so doing I adopt a social constructionist approach in order to explore the ways in which this mother is positioned through the language of dominant psychological, social, and legal discourses of mother and family. Social constructionism argues that we construct or create our own identities and position ourselves in the world according to our understandings of particular discourses. A social constructionist inquiry is principally concerned with "explicating the processes by which people come to describe, explain, or otherwise account for the world (including themselves) in which they live" (Gergen, 2003, p. 15). Descriptions and ideas of the world are considered to create, rather than reflect, reality (Gergen, 1994a; Clarke, 2002). Therefore 'truth' is contingent upon our reading of the world around us, and our interpretation of discourses.

The lesbian non-birth mother is frequently positioned within the language of psychological, social, and legal discourses by being either acknowledged as the birth mother's partner, but not as a mother or parent in her own right, or is rendered invisible, by not being acknowledged at all (Sullivan, 2004; Thompson, 2002).

In legal discourses where heterosexuality is institutionalised, the non-birth mother is often constructed as irrelevant or redundant - a biological stranger - whereas the birth mother is constructed as essential, crucial for the child's development and well being (Dalton, 2000; Thompson, 2002). This failure to recognise lesbian non-birth mothers as mothers is also apparent in psychological and social discourses which mirror legal discourses in the way that these mothers are challenged to construct their identity within dominant texts that attempt to either erase or defile their claim to the title mother (Sullivan, 2004; Thompson, 2002).

Discourses that position lesbian mothers as invisible or unfit to parent can be seen to

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<sup>1</sup> This paper is written by the first author in the first person.

<sup>2</sup> I will use the terms non-birth mother and birth mother when I need to distinguish between them in this paper. The terms mother, parent, co-mother, co-parent, and non-biological mother are also used by

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lesbian mothers, and are variously adopted in the psychological literature. This reflects the heterogeneity of lesbian mothers' self-identification, and the diverse ways in which such mothers are constructed within academic discourse.

operate from within a homophobic or hetero-normative worldview. Within hetero-normative discourse the identity 'lesbian' is equated with perverse and deviant sexuality in contrast to 'mother', equated with nurturing and selfless care (Thompson, 2002). I argue that it is important, from a constructionist standpoint, to recognise that binaries such as nurturing heterosexual mother versus deviant sexual lesbian are constructions that inform perceptions of reality, and while they are descriptive of a social context wherein heterosexuality is the norm, they also actively contribute to the maintenance of that norm. If the constructive nature of the binary is accepted, it then becomes possible to straddle the opposing sides and move between and beyond them (Davies, 1998).

### Issues Raised by Previous Research

Empirical research carried out among lesbian families over the last thirty years began in response to legislative and judicial decisions in Europe and America where divorcing biological mothers, who were lesbian, were denied custody of their children based on what was considered the best interest of the child (Baetens & Brewaeys, 2001). There has been an assumption within the courts that lesbians and gay men are mentally ill, that lesbians are less maternal than heterosexual women, and that the nature of gay and lesbian relationships leaves little time for child rearing (Patterson, 1995). Until the mid 1970s, the vast majority of gay and lesbian research constructed homosexuals as sick and deviant individuals who were the result of disturbed upbringings (Coyle & Wilkinson, 2002). Despite this legacy of being classified<sup>3</sup> as an aberrant mental state, studies have not found that lesbian mothers are less maternal, or more mentally ill than heterosexual mothers (Patterson, 1995). Recent evidence finds lesbian couples that parent together divide household labour and child rearing tasks more equitably than heterosexual couples, and report significantly more satisfaction with their relationship (Bos, van Balen & van den Boom, 2004; Patterson, 1995; Sullivan, 2004). In planned lesbian-parented families the non-birth mother has been found to be as much involved in child activities as the birth mother, unlike the

father in families of heterosexual couples (Bos et al., 2004; Sullivan, 19996; Vanfraussen, Ponjaert-Kristoffersen & Brewaeys, 2003).

Much of the previous research with lesbian parents has been organised along arguments of sameness or difference. Victoria Clarke (2002) argues that lesbian mothers have been positioned along four dimensions that have informed research and theory regarding lesbian parenting. These dimensions are: (i) the same as heterosexual families; (ii) as different, and therefore deviant; (iii) as different, and therefore transformative; (iv) as different only because of oppression. I argue that when considering the experience of the non-birth mother and the social construction of her role it is also important to consider the nuances of identities such as mother, father, and parent. Lesbian mothers may not be just the same as heterosexual mothers nor may they be completely different to heterosexual fathers. The construction of a lesbian maternal identity could be seen as similar to the creation of a mosaic drawn from fragments of experience, culture, and expectation. I have adopted qualitative research methodology in this study to allow for an exploration of nuance, and of contradiction in the experience of participants.

As the majority of published studies that explore the experience of non-birth mothers in lesbian relationships come from settings outside of Australia (Bos, et al., 2004; Patterson, 1995; Sullivan, 2004, Vanfraussen, et al., 2003) I felt it important to examine the experiences of non-birth mothers within Australia. This study is concerned with how lesbian non-birth mothers construct their identities, and with their subjective experience of this identity.

## Method

### *Design and Procedure*

As mentioned previously, this study employs a social constructionist framework (Creswell, 2003; Guba & Lincoln, 2005). Interpretative Phenomenological Analysis (Smith, 1999) has informed the design of this study. The study is phenomenological in that it is concerned with the subjective experience of the individual, and it recognises that this experience is negotiated within a social context.

I also recognise that the interpretations I make of my subjects' experiences are a reflection of

<sup>3</sup> As a result of intensive lobbying, in 1973 the American Psychiatric Society voted to remove homosexuality as a psychiatric disorder from the *Diagnostic and Statistical Manual of Mental Disorders (DSM)* (Mendelson, 2003).

my own personal, cultural, and historical experiences (Creswell, 2003; Smith, 1999). Thus meanings are mediated and constructed by social and historical forces and by the research process itself.

I conducted in-depth interviews with 7 voluntary participants that focussed on obtaining rich detail of their understandings of their experiences as non-birth mothers in planned lesbian families. I used a schedule of questions and I followed up topics introduced by participants. Questions covered areas including: how it was determined who would bear the child; participants' perception of their role within the family; how they thought people outside their immediate family perceived them; and the impact having a child has had on their relationship.

Interpretation and analysis was continuous and flexible and began with the first interview. Subsequent interview questions and sampling

procedures were adjusted to take account of early findings. Each interview was typed verbatim within 48 hours. Each transcript was read a minimum of six times to compile emerging themes, and for a sense of the whole (Giorgi & Giorgi, 2003; Silverman, 2005).

This study was granted Ethics Approval by Charles Sturt University Ethics in Human Research Committee.

### Sampling

To meet the selection parameters participants needed to be lesbian and be in a relationship where, together with their female partner, they had planned to have at least one child that the participant's partner gave birth to. Snowball and purposeful sampling approaches were used. I used a purposeful sampling approach to select participants from a wide geographical area to maximise diversity within the data.

Participant	Age	Maternal identifier	Partner	Maternal identifier	Child	Child's age	Residence
Linda	35	Mama	Nancy	Mummy	Rose	2	Sydney
Paola	37	Mummy Paola	Margot	Mummy Margot	April Jesse	6 4	Coastal NSW
Belinda	37	Mama	Carmen	Mummy	Troy	2	Inland NSW
Lily	43	Lilzy	Melissa	Mummy	Sophie	3	Coastal NSW
Jane	73	Spare Mum or Jane	Claire	Mum	Karla	24	Inland NSW
Rosie	47	Mama	Hanna	Mummy	Pearl	3	Melbourne
Anna	36	Mummy Anna	Cate	Mummy Cate	Jack	3	Melbourne

### Demographic Information

Participants came from two major urban centres and two major rural centres in Australia. Pseudonyms are used for all interviewees, their partners, their children, and other people mentioned.

### Results and Discussion

Lesbian mothers in this study experienced themselves as both the same as and different to heterosexual mothers, fathers, and general society. Their interpretation of the ways they are constructed, such as invisible, or deviant, or

equal, inform how they negotiate with the world. By questioning what it means to be a mother, or a father, or a parent, these women negotiate the tensions between these categories and can be seen to challenge and re-work (at times utilising, subverting, transcending, sidestepping and transforming) existing mother/father binaries.

In this paper I will discuss three manifest themes and one latent theme that emerged from an in-depth analysis of the data. These themes are: (i) When to wave the rainbow flag: The social construction of the lesbian family; (ii) A bond like no other? - Relationships with family of origin; and (iii) Parents & mummies; butch &

femme: The construction of maternal identity. A latent theme of 'same as and different to' represents a specific underlying dynamic that became apparent throughout the data.

*(i) When to Wave the Rainbow  
Flag: The Social Construction of  
the Lesbian Family*

Because two-mother families are a relatively new phenomenon, the members of these families are often in a position of educating the community as they introduce and construct their identities in the wider world. Non-birth mothers in particular are challenged to construct their role as lesbian mothers who have not birthed their child(ren). Birth mothers can choose to rely on their biological link to their child(ren) in their descriptive practice. The participants in this study have no such link, and no familiar category, and therefore are often in a position of creating their socio-familial identity in their interactions with others.

I disclose my sexual orientation about eight billion times more than I ever did before and I don't really have very much of a choice these days [...] Not that I'm saying, you know that we are likely ladies in the closet or anything. I mean we're not, we're out and about lesbians, but there just are these occasions where [...] you just might not feel like waving the rainbow flag! (Laughter) [...] Three weeks after Pearl was born, I was at a meeting and it came up that I'd just had this child and they were saying: "Oh! My God, how are you managing with the breast feeding?" and "You're looking pretty good!" You know. So it's those kinds of things [...] I think it is particular to me, for the non-biological mother (Rosie).

Rosie describes a shared experience among the women in this study of the day-to-day construction of her role as a lesbian non-birth mother. This is often arduous because these mothers must choose between the consequences of disclosing their sexuality or the consequences of denying their maternal role.

This theme explores how lesbian mothers subvert the binary of sameness = normal / difference = deviance. By positioning themselves as both the same as, and different to (dominant discourses of mother), these mothers straddle the sameness/difference binary. They construct themselves simultaneously as 'normal' members of society and as lesbian mothers. Despite culturally embedded discourses that would construct

lesbians as different and deviant, these women actively position themselves as different and the same.

All the mothers in this study describe an ongoing process of constructing themselves as 'normal'. Paola addresses the latent theme of constructing herself as both the same as and different to everybody else when constructing her social identity:

It's not about [...] having an S&M dungeon in the attic you know, just a regular family that reads to kids at night, gets them to school, sometimes on time. You know [...] there might be that initial shock and then it's just a process as we were saying before, about engaging with those people, and showing them that we are not scary, we are not, and it just melts away really. It pales into insignificance, which is good.

Participants in this study were aware that lesbians are viewed as different (and deviant) in Australian law, and that homophobia is enshrined in legislation.

You know before I had Pearl I didn't really know what the adoption law was [...] I didn't really know how discriminatory the law was, even though I'm a lawyer. I mean I assumed it wasn't good. But I didn't know. But now because I've had Pearl I've had reason to look up the Adoption Act [...] and discover that lesbian parents, or lesbians or gay men aren't considered fit and proper people [...] and so we're not able to adopt. So I think that lesbians and gay people's relationship with children goes to the heart of homophobia. It really does (Rosie).

Being different in the eyes of the law while fighting to assert their sameness was a shared experience for the mothers I interviewed. Lesbian mothers are faced with legislation and public opinion that positions them within a discourse of deviant otherness. Lesbian mothers maintain their label as lesbian but they attempt to change how they are constructed by redefining themselves with pride, by "waving the rainbow flag"<sup>4</sup> and by establishing themselves as "regular" families. The narratives they use to create their place in the world and to protect their children assert that while they may be different, they are still the same.

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<sup>4</sup> The rainbow flag is an international symbol of lesbian and gay pride.

*(ii) A Bond Like no Other?  
Relationships with Family of Origin*

The perceptions of extended family, society, and culture in constructing the identity of the non-birth mother are clearly significant. Although an individual may stake out an identity claim such as 'mother', the response of significant others, particularly extended family, affects the validity of that claim (Hequembourg & Farrell, 1999).

The disclosure of sexual identity to family of origin has been described as the "litmus test" of blood ties (Sullivan, 2004, p.127). With the arrival of children the non-birth mother's family of origin does not benefit from the culturally mediated meanings of consanguinity that are available to the biologically connected birth mother's family (Sullivan, 2004). Even so, families of birth and non-birth lesbian mothers both encounter entrenched heterosexism.

All participants, bar one, experienced negative reactions from extended family (sometimes on both sides) upon the announcement of the impending birth of their child. Examples included:

Ah well they were pretty horrified. Straight middle class people, [...] my father was really horrified when he heard that Claire was pregnant. He didn't think that was quite right (Jane).

Her mother said it felt worse than when Hanna's sister, when she was diagnosed with terminal cancer. And that it was like a death in the family, it was that sort of feeling of grief, and she had really wished Hanna had mentioned it before she got pregnant and she would have done whatever she could to change her mind (Rosie).

The vehement reactions of extended family experienced by the majority of mothers in this study may be a reflection of family engagement with hetero-normative social discourses that position lesbian mothers as most deviant, and as bad for children. It is one thing to have a lesbian daughter, but to have a lesbian daughter who herself has children was a difficult proposition for these families.

Only one co-mother in this sample reported that her own mother immediately accepted the child as a grandchild, and afforded her the same privilege and status as biologically related grandchildren:

I was expecting a lot worse but they have treated Rose exactly the same as my brother's

children. It's really nice, really nice. Mum's got a shop and she's got the photo of Rose up there and everyone's saying, "Oh who's that?" And, "Oh that's my granddaughter", and, "Oh she looks like you". And all this sort of stuff and that makes her feel terrific too. She just thinks it's great. So there is no difference (Linda).

Discrimination by family was by far the most common form of homophobia spoken about by the women I interviewed, and the most painful. A surprising finding arising from my interviews with non-birth mothers is that while grandparents may see themselves as such, they do not necessarily see their daughters as mothers. Anna explains her experience of the nuances of extended family relationships:

Because you know my own mum having four daughters and reproduction is such a central, like such a major part of who she is that she felt, she was worried I would be lonely or I would miss out. "That the bond that you have by birthing a child is a bond like no other", as she has quoted several times. But like you know, I don't know, because I'm not a birth mum but I can only say what it's like for [me] is I've been with Jack since he was a little egg and I just love him and I have very strong feelings towards him. So, you know I'm not sure she's been able to step in and understand my perspective either being a non-biological mum (Anna).

It is difficult for Anna to assert her relationship with her child in the face of non-acceptance from both her mother, and her partner's mother, Julie. In response to my initial question asking whether she felt validated in her role as non-birth mother Anna had answered yes, that there were no major issues. However when we began talking about her extended family she realised that at times she did feel invisible in her role as co-mother:

In fact the things that make me probably angriest are around the little family things that happen, and Mothers' Day I got pretty shitty, I felt pretty crappy and yeah, pretty invisible. You know, I mean Julie knows I'm Jack's other mother and [...] [she] blatantly can't acknowledge it ... And I think that's the tragedy: we all get a bit caught up um with biology, and I'm not Jack's biological mum and I will never be that, but it doesn't matter because I am who I am (Anna).

It may be worth considering here whether Anna's mother feels that her daughter's claim to the title 'mother', without actually birthing, is a threat to the validity of her own role. Do mothers such as Anna's mother, for whom



"reproduction is central", feel that their own identities are threatened by their daughter's attempts to challenge the definition of mother as birther? While Anna's mother has difficulty accepting her as a mother, she does consider herself a grandparent of Anna's son Jack.

Non-birth mothers in this study were trying to position themselves within their unique maternal role, often in the face of opposition from their own mothers who in many cases could only see differences and not similarities.

*(iii) Parents & Mummies; Butch & Femme:  
The Construction of Maternal Identity*

This theme gets under the skin of lesbian maternal identity formation and explores how co-mothers rub against hetero-normative discourses of mother, and lesbian discourses of butch and femme, as they create roles for themselves within their immediate families. The mothers I interviewed all went through a process of negotiating a role for themselves within their immediate family. All the participants used very similar language to describe the strength of their love for their children. Some women use an implicit argument of sameness; saying their bond with their child(ren) is as strong as the bond of the birth mother. Lily describes a very deep love for her child Sophie:

I can't imagine I would feel more connected to Sophie if I was the biological parent. I don't think it would be possible for me to have a deeper connection to Sophie. I just can't see how that could be possible (Lily).

Paola's experience is the same as Lily's in that she feels her bond with her child could not be stronger:

I didn't find it to be different. I know that's peculiar. But I didn't I just didn't she may as well have come from my loins really. I felt like I had given birth to her (Paola).

However the women use different relational descriptors symbolically to represent this bond with their child. Lily is very clear that she is Sophie's parent, and not her mother:

I mean I'm not comfortable with the idea of being anyone's mother (laugh). And it's partly about the idea of what is mother and you know I think to carry and actually push someone out, to be the body that gave rise to the baby is a very different proposition to being the one that hasn't.

It's partly about what is a mother and I don't identify as a mother, I identify as a parent but not as a mother. Mother is the one who carries you, pushes you out, suckles you, and is your primary carer. That's how it's worked out in this family (Lily).

Lily says her role, as lesbian parent, does not fit within dominant social discourses and cultural markers of parenthood, however she is recognised as her child's parent in day-to-day interactions:

There's Mother's Day and there's Father's Day, there's no Lily's Day (laugh). So you are erased in a lot of ways. And... you are erased in terms of the dominant texts you see around you, however you are inserted in a particular way in all your social interactions... Everyone knows I'm Sophie's parent and it's a kind of a generic that's not socially recognised. Is it? (Lily).

Lily attempts to extend, and hence topple, the mother/father binary by creating a third role of lesbian parent. Lily describes the cost of toppling the mother/father construct as social invisibility for the lesbian parent. Paola challenges Lily's position that mother is biologically determined and asserts that there is no difference between mother and father, or non-birth mother and birth mother. Unlike Lily, Paola very clearly sees herself as a mother and her children call her "mummy Paola", and her partner "mummy Margot". Paola's definition of mother raises questions about the constructions that are used to define and limit mother and parent:

Yeah the non-birth mother I just think you know you can't say he is the non-birth father can you really. So why would you call it that? Why would you call it the non-birth or the non-biological you know? You're a parent you're a parent. You could be a mum or a dad or a mum or a mum... As I said before I feel like I may as well have given birth to April, I feel particularly bonded [to her]. It's not about biology, obviously, it can't be. It's not my egg! I didn't give birth. So yeah it's just about our relationship... So I guess it's about what sorts of things we are attaching to motherhood that we really have to re-look at. Um you know what does it mean: does it mean you give birth? Does it mean you stay at home? Does it mean you go to work? You have to look at that and see what it means. Is it someone who loves you? Someone who does your washing? You know, what is it? Is it someone who plays with you, does craft? I guess it's all of those things and more (Paola).

In the process of creating roles for themselves in relation to their children and partners, these women have drawn on discourses of the mother and have come up with different interpretations.

Gendered role definitions within the couple relationship also affected how non-birth mothers constructed their maternal identities. The butch-femme narrative is the most common cultural narrative for the gendered construction of lesbian relationships (Laird, 1999). While it may seem overtly heterocentric, within lesbian culture the butch-femme metaphor takes on a complexity that is beyond being merely imitative of heterosexual gender roles. In lesbian relationships identifying more with one gender, feeling more masculine or feminine, does not necessarily equate with power and privilege (Laird, 1999). Negotiating roles as mothers within a butch-femme cultural narrative was a task met by some of the co-mothers in this study.

For Linda the greatest challenge after the birth of her child Rose was her struggle to maintain her 'butch' role within the relationship and deal with what she felt were feminine feelings of wanting to be a mother:

I just I thought I would be like the baby's father, I would just be like a dad and do what my dad did, go out and do what he did and that's that. But it wasn't like that at all. I had this urge to be with this child all the time. And I just realised that I was a mother; I wasn't a father at all. It was very difficult. I remember I cried every day I left the house for at least a year thinking: is this separation from the baby? It is still so strong in me I can feel it now, feel the emotion rising. But ah it was really, really hard. I hated it ... I couldn't say to Nancy you go to work and I'll stay home, she's not going to have that either. So it was very, very difficult to deal with that sort of stuff. I'd always been thinking I was this butch little number running around playing footy and all of that but it wasn't like that when the baby came. And that sort of caused a few issues between us too ... and also I was crying. Crying? Sheilas cry, you know? All that stuff... it was really confronting (Linda).

Linda equates emotion and vulnerability with the feminine and with mother. She was forced to reconsider how she had constructed her identity as a "butch little number" by the strength of the 'feminine' feelings she experienced in relation to her child. Those feelings were evident as she spoke to me; I saw tears in her eyes as she talked of leaving her child to go to work.

Linda's struggle to reconcile her new experience as mother with her identity as butch lesbian was also a difficult experience for her partner. Once Rose was born and Linda started to move towards the feminine both Linda and Nancy found their identities, and their relationship under threat:

Well,... she [Nancy] had really butch-femme relationships, and I was probably the femmest person that she had ever been out with, by a long way. And ah I think it was very difficult for her because I think she wasn't attracted to that side of me, to that [part of] me wanting to be a mother. That wasn't attractive to her sexually or emotionally. You know and ah, I found that too within myself. I thought hang on all those you know identifiers are all getting a bit warped now. God (Linda).

Here Linda reveals how important it is in her relationship that she maintains her butch role. Nancy had had partners who were more butch than Linda in the past; Linda was the 'femmost...by a long way'. It appears to be a part of their relationship contract that Nancy is femme and Linda is butch, and there is an implication that Linda was only just butch enough to begin with. For Linda and Nancy it was important that despite Linda's new feelings, and her new position as 'mama', they maintain their distinct roles. Linda has refigured her role to encompass seemingly irreconcilable differences; she has integrated what had appeared to her as the paradox of the butch mother. These women have rewritten the butch-femme narrative of their relationship to allow them to maintain their role divisions and to both to be mothers. They are different and the same.

Other participants did not overtly describe themselves as butch or femme but some did identify with fathers both in terms of their role within the family as breadwinner, and in terms of how people outside of the family unit constructed them.

### General Discussion

I have borrowed Cheryl Muzio's (1999) clever use of language for the title of this paper. Her play on other mother as "(m)other" beautifully encapsulates the experiences of the mothers<sup>5</sup> interviewed in this study. Various described in

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<sup>5</sup> Again not all participants see themselves simply as mothers: Lily sees herself as a parent, not a mother and Jane says she is the "spare mum".

the literature as non-birth mothers, non-biological mothers, co-parents, or co-mothers, (and far less often just described or referred to simply as mothers), the women I interviewed are constrained and limited by language. Throughout this research project I have struggled with language and have not found an appropriate common descriptor to name the women I am attempting to understand. There was no agreement regarding a name for the non-birth mother among the participants in this study, each had a title that suited her own particular situation. Various titles mummy, mama, spare mum, and Lilzy, these women did not agree on language about or definitions of mother. In trying to find one term to use to refer to all these women I have chosen to settle on the uncomfortable compromise of 'non-birth mother' a term that does not adequately represent all the women in this study and unjustly defines them in the negative. I have been very aware throughout this research how by aiming to give voice to non-birth mothers I am also implicitly perpetuating the otherness of their experience.

The latent theme of 'same as and different to' demonstrates how the Australian non-birth mothers in this sample have recognized the constitutive nature of oppositional binaries. Through continuously positioning themselves as the same and different, as normal and as lesbian, as non-birth and as mother, they have subverted hetero-normative discourses and claimed legitimacy for their roles as mothers and parents. They have done this through their day-to-day challenges of entrenched discourses of the essential, heterosexual, and biological mother and father. These challenges take place in their interactions with the wider world, with their partners and child(ren) and, most disturbingly for the women I interviewed, these challenges also take place with their families of origin.

Non birth mothers in planned lesbian headed families are phenomena particular to this time in history. Very little Australian research has been conducted to explore the experience of lesbian non-birth mothers. Their social presence, while confronting for some, seems assured and further research is needed to improve our understanding of this maternal role, and this family structure. In particular, further psychological research may have a role to play in improving the legal status, and the welfare, of lesbian parents and their children.

The use of sameness *and* difference as a constructive device by the mothers in this study has implications for how we construct notions of family, mother, and parent in Western society. By constructing their maternal identities through the competing discourses of motherhood, patriarchy and lesbianism, lesbian mothers subvert the mother/father binary construction of the Western family. Much of the previous psychological research has used an argument of sameness to counter attempts to position lesbian mothers as deviant and as bad for children. This study has highlighted the voice of lesbian non-birth mothers as they construct their maternal identities as the same and as different. In this way they have stepped outside of hetero-normative discourses of family and begun the work of constructing the discourse of the lesbian mother, a discourse that does not rely solely on its similarities to heterosexual mothering in order to legitimise lesbian parenting.

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## "RISKING THE KIDS" VERSUS "DOUBLE THE LOVE": COUPLE-COUNSELLORS IN CONVERSATION ON LGB PARENTING

MARGARET EVANS AND MEG BARKER

### Abstract

*The literature on lesbian, gay and bisexual (LGB) affirmative psychotherapy suggests that heterosexist and homophobic discourses persist in the accounts of counsellors and therapists (Milton, Coyle & Legg, 2005) and that these may particularly cohere around the issue of same-sex parenting (Moon, 1994; Phillips, et al., 2000). The current research demonstrates that this was the case in focus group discussions with counsellors working for a UK relationship therapy organisation. Many participants drew on discourses of same-sex parenting as 'risky', reproducing arguments about the 'danger' of potential prejudice that such children may face and the 'necessity' of differently gendered role models (Clarke & Kitzinger, 2005). However, these were sometimes challenged within the discussions, particularly with the offering of an alternative discourse of children of same-sex parents experiencing 'double the love'. The potential of such discussions to resist heterosexist discourses is considered as a possible direction for counsellors' on-going professional development training.*

### Introduction

The literature on 'gay affirmative therapy' demonstrates that some psychotherapists and counsellors fail to offer their lesbian and gay (LG) clients<sup>1</sup> the conditions for an accepting therapeutic relationship (e.g. Davies 1996). Milton and Coyle (1999) found many inaccurate assumptions about LG people amongst the therapists they interviewed. Moon (1994) reported that only half of the heterosexual female counsellors she interviewed felt able to help lesbian clients own a positive identity. Furthermore, none had received training in LGB issues, even though all counsellors stressed the importance of exploring their own attitudes before counselling LGB people. This lack of appropriate training has been reported across

<sup>1</sup> Much of the cited research spoke only about lesbian or gay people, therefore sometimes the acronym LG (lesbian and gay) is used and sometimes LGB (lesbian, gay and bisexual). Unfortunately it was beyond the scope of the current research to consider broader trans and queer issues.

various training courses and therapeutic approaches in the UK (e.g., Iantaffi, 2006).

Ritter and Terndrup (2002) locate their handbook of affirmative psychotherapy in the context of the prevalence of cultural heterosexism (the assumption that "heterosexuality is superior to, or more natural or healthy than, other sexualities" [Davies, 1996, p.24]). Such heterosexism can clearly be seen in wider debates around 'same-sex' parenting<sup>2</sup>. Victoria Clarke and others have extensively studied the ways in which people talk about same-sex parenting in research discussions (e.g., Clarke, 2005) and on television talk-shows and documentaries (e.g. Clarke & Kitzinger, 2005). The notion that children are likely to experience homophobic bullying is most frequently deployed to attack same-sex parents (Clarke, Kitzinger & Potter, 2004; Ellis, 2001). Alongside this is the construction of same-sex parents as deficient, utilising the argument that both male and female role models are necessary, and that children of same-sex parents are 'missing out' and risk experiencing 'confusion' about their own gender and sexuality (Clarke & Kitzinger, 2005; Benkov, 1995; Stacey & Biblartz, 2001).

In the 1970s and 1980s such arguments were regularly used in court cases to deny custody to parents in same-sex relationships (Clarke & Kitzinger, 2005). In 1976, Rhodes Boyson MP voiced the dominant discourse of the time when he said that "children have a right to be born into a natural family with a mother and a father. Anything less will cause lifelong deprivation of the most acute kind" (cited in Golombok et al., 1983, p.562).

In recent years there have been considerable political and legal shifts regarding same-sex couples and parents. In the UK these took the form of the Adoption and Children Act (2002),

<sup>2</sup> The phrase 'same-sex' parenting is used throughout this paper to refer to LGB couples of the 'same' sex who parent children. Again, we recognise the problems with the concept of 'same' sexes (situated as it is in a binary understanding of sex/gender) and the fact that we fail, here, to consider gender-queer or trans parents or those who parent in setups other than monogamous couples. See Riggs (2006) for a detailed consideration of some of these issues.

which enabled same-sex couples to adopt and foster children, and the Civil Partnership legislation (2005), which offered legal recognition of same-sex relationships. However, until recently, the UK Human Fertilisation and Embryology (HFE) Act (1990) required that clinics take account of the 'need' of children for a father (see Clark, 2006). The British Government in 'Supporting Families' (Home Office, 1998) still describes marriage between two opposite sex people as providing the best environment for children. Very recently, the Roman Catholic Church in Britain demanded 'freedom of conscience' from the Equality of Services Act regarding sexual orientation (2007) to exclude their adoption agencies from offering gay and lesbian people the right to be considered as adoptive parents.<sup>3</sup>

Psychological research on the children of same-sex couples has played a vital role in the challenging of problematising discourses. Researchers such as Susan Golombok and Fiona Tasker provided evidence that was used successfully to challenge pathological views in custody cases, and their research supports the claim that children brought up in lesbian families are as well adjusted as those brought up in heterosexual families (e.g. Golombok, 1999; Kershaw, 2000; Patterson, 1992) and do not show 'atypical gender development' (Tasker & Golombok, 1997). More recently the perception that such children will inevitably be rejected by peers has also been challenged (Tasker & Golombok, 1997; Patterson, 1992).<sup>4</sup>

However, as Kitzinger and Coyle (1995) and many others have pointed out, arguing for the rights of LGB people on the grounds of their similarity to heterosexual people is problematic: it has the potential to reinforce heterosexism by forcing LGB lives into heterosexual patterns and erasing and problematising those aspects of LGB life that do not conform to these. Stacey and Biblarz (2001) relate this specifically to research on same-sex parenting, challenging the "defensive conceptual framework" involved in arguing that the children of same-sex parents have the same developmental outcomes as those of heterosexual parents (p.159). They identify several beneficial differences for children brought up in single gender households

including suggesting that LGB parents can produce more egalitarian role models and presenting research that their children demonstrate a broader understanding and acceptance of the wide variety of gender and sexual practices in society.

Clarke (2006) similarly presents alternative available discourses on lesbian parenting regarding 'male role-models'. Liberal discourses tend to emphasise lesbian parents making efforts to provide such role-models in the form of family and friends, implicitly accepting the premise that such role-models are necessary. Clarke presents the emergence of a more critical discourse which questions the assumption that 'both gender' role-models are necessary and celebrates the value of lesbians and gay men as "non-traditional role models" (p. 32) who might provide alternative gender possibilities for children. However, Clarke recognises that liberal discourses may be deployed strategically. For example, Hicks (2000) found that lesbians who were most conforming to heterosexual lifestyle patterns were privileged by those assessing potential foster and adoptive parents.

Turning once again to the arena of counselling and psychotherapy, few people have specifically researched discourses around same-sex parenting within such groups. However, some general research on therapy with LGB clients has touched on this issue. Milton and Coyle (1999) found examples of child and family specialist therapists assuming that LG issues and training were not relevant to them, suggesting that it was not even considered that LG and parent identities could overlap. Phillips et al (2001) found that psychotherapists "lacked awareness that many gay people have children and the support of extended families and that many heterosexual people do not" (p. 83). Galgut (1998) found that a larger proportion of older counsellors and therapists, and those with a religious belief, did not support adoption or the use of artificial insemination by lesbians.

Hicks (2006) suggests that the issue of lesbian and gay parenting "still has many 'empty spaces,' that is, questions that must be raised, researched, debated" (p. 86). The current study, then, is an attempt to go some way towards filling one 'empty space' by exploring the discourses drawn on by relationship counsellors when discussing the issue of same-sex parenting. It was clear from discussions that this was, indeed, a major area of contention where

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<sup>3</sup> See Millbank (2003) for an overview of the political and legal situation in Australia.

<sup>4</sup> See Kershaw (2000) for a thorough review on the research on effects on children of living in a lesbian household.

previous and valued discourses of 'equality' sometimes broke down.

### **The Study**

A total of 27 relationship counsellors took part in six focus groups. Only 3 participants were men, 2 of them in the same group. Each group had two sessions, each of which ran for an hour.

The participants were self-selected, representing just over a third of the workforce of each of three regional centres of a UK relationship counselling organisation. They all worked on a sessional basis with self-presenting clients who had relationship difficulties and who contributed to the costs of their counselling.

Counsellors for this organisation are not involved in gate-keeping for adoption agencies or working with the UK courts or health services. However, their ways of working with LGB clients (including those planning, and already with, children) were considered important because the organisation is open to those in LGB, as well as heterosexual, relationships and also to LGB counsellors.

The focus group discussion sessions were audio-taped and transcribed by the first author to encourage 'immersion' in the data (Jefferson, 1984; McLeod, 2001). The names of participants were changed and the organisation anonymised to protect individuals.

The transcripts were analysed by the first author using discourse analysis (Parker, 1999; Potter & Wetherell, 1987) to examine the counsellors' responses. Discourse analysis asserts that we construct our realities, our "versions of the world" (Hepburn, 2003, p. 176), through our choice of language and words in everyday talk, in order to achieve something in our interactions. The researchers' detailed reading of and thoughtfulness about the data can reveal many different layers of meaning and linguistic devices used to structure arguments or descriptions. Commonly-held discourses in society are drawn upon by groups and individuals through talk at different times to serve different purposes.

The research question "What do you think about lesbian and gay people having children?" was one of several LGB issues posed in the focus groups. However, as previously mentioned, it was one where discourses of 'equality'

particularly seemed to break down, and also where there were interesting attempts made to resist, as well as reinforce, heterosexist discourses. The first author found herself, as moderator of the groups, also participating in the discussion from time to time, often to challenge or to comment on what was being said. She attempted to reflect on and analyse her own interventions where this occurred, using a reflexive approach as advocated by Etherington (2004).

### **Analysis**

The analysis is structured into three sections. First, constructions of same-sex parenting as deficient are considered under the heading 'Risking the Kids'. More affirmative discourses are then presented under the heading of 'Double the Love' (both of these being phrases used by participants in the discussions). Finally, the way in which dialogue within the discussions sometimes resulted in the challenging of certain discourses and the offering of alternatives is presented, drawing together the previous two strands in relation to the specific issues of IVF and donors for same-sex parents.

#### *'Risking the Kids'*

The first quote, from Diane, exemplifies the dominant cultural discourse introduced above: that 'role-models' from both genders are necessary in child-rearing:

Diane: I guess there are many people who would say um they're not going to be able to give a proper role model of man and woman.

Here Diane uses the externalising device of 'what many people out there think', rather than 'owning' the statement about gender role models, as she may be concerned that such opinions will not be approved of by the group. The hesitation "um" suggests that she is pausing before giving what could be labelled by the others as a prejudiced view. The externalising device also serves to provide consensus and corroboration for her statement (Wooffitt, 1992).

By the use of the word "proper", Diane draws on the discourse of 'correct' parenting roles which are presumably to be understood as being biologically determined, fixed according to gender, and inviolate. This same dominant cultural discourse was expressed in two of the

other groups. Here Diane does not consider an alternative discourse, which would suggest that there is more than one way to be a man or a woman and that this may in fact be socially and culturally determined (Weeks, 2003; Kitzinger, 1987).

Viv also draws on a similar concern that same-sex parents may leave their children confused about "gender issues":

Viv: I suppose my issues are a little bit about the children and how do they understand gender issues. (pause then continuing) How do they? What do they think, erm what do they think would be right for them?

Viv expresses reservations about what the children might think would be *right* for them. This is put across as two questions to the group, one after the other: "how do they?" "what do they think?" to engage the listeners in considering the implications of what might be "right" (meaning 'correct') for such children. It is, however, difficult to discern what Viv is referring to in her use of the word "right". It may be that she is suggesting that there is a 'right' or 'correct' way of being male/female. Or it may be that she is suggesting that to be 'right' is to be heterosexual, rather than lesbian, gay or bisexual. There is also a footing shift here as she moves from her own view to the children's view – "how do *they*?" What were initially her own view of parenting gender issues are then transferred and become the child's issues.

Elsewhere in the discussions, participants were invited to discuss a list of common beliefs regarding gay people. In the following example the discourse of concern over potential discrimination from children's peers came up:

M.E: (reading from a list) Gay people should not have children? There's a feeling we agreed with that to some extent, or you did Leila?

Leila: Yes I do wonder what the children would have to go through.

Viv: I don't see why gay people couldn't be very good parents.

Leila: I think they could be excellent parents. Excellent. Viv: Yes. It is the children I think I worry about.

M.E: And you would worry as much about children of disabled couples, mixed race couples?

Viv: I think they are going to come across prejudice just in the same way.

M.E: So therefore they should not have children?

Viv: No I didn't say that. It's where I've got a problem.

Here Leila's first word is "yes" and she appears to be agreeing that gay people should not have children. Such children are seen as having to "go through" something, suggesting an 'ordeal' which implies endurance, patience, courage, and hard work. Following this, the emphasis on "*excellent* parents" is surprising. This example of extreme case formulation (Pomerantz, 1986) could be deployed to protect Leila against being perceived as prejudiced by others in her group, rather like the common stake inoculation 'I'm not homophobic, but...' (Gough & Edwards, 1998).

The listener is left wondering how an "excellent" parent is defined, or indeed would be recognised. As Winnicott (1964) - a theorist who is drawn upon later in the discussions - argued, parents only need to be "good enough". Leila's concern for the children seems strange because, if the parents were "excellent", the children would presumably be enabled to deal with any prejudice they may face.

Viv describes herself as "worrying", which is perhaps intended to demonstrate to the listeners that she is 'caring' and concerned about the children, but when challenged she recognises her inconsistency in discriminating against gay people, but not disabled or mixed-race couples. However, as Clarke (2005) points out, the equation of same-sex parents with disabled ones is not an unproblematic one.

### *'Double the Love'*

In answer to the question about lesbian and gay parenting, Carol responded:

Carol: They are flesh and blood like we are. They have the same feelings, they have the same aspirations in life, I mean. Why should we say that just because their sexuality is on a different spectrum to ours that they shouldn't have children?

Here Carol constructs her position as the obvious way that anybody would think and feel about this topic. Although she uses 'them and us' terms, Carol draws upon an inclusive



discourse about the common humanity of everybody including LGB people. She uses a questioning device in a baffled sort of way - why anyone should question this right to have children - to construct and invite consensus and corroboration. She is appealing to the other participants' 'common-sense' to construct her comments as factual and legitimate and present her view as one shared by everybody (Wooffitt, 1992). However, with her use of the words "we" and "they" and "ours", Carol also draws on the heterosexist societal discourse assuming that everyone in the group is heterosexual. The rights of same-sex couples to parent are also situated in their ability to be similar to heterosexual people (Stacey & Biblarz, 2001).

Carol then goes on to challenge the previously discussed perception that children need differently gendered parents as role models, presenting an alternative discourse of multiple role-models:

Carol: Well children have role models throughout their life. They have male or female teachers, they have male or female friends and friends of friends and there are lone parents aren't there, so there are parents who bring up children on their own and there are grandparents to model on. Often fathers who are away for a long period of time you know, they are working on oilrigs and things, they are not always at home so you will have to use the role models that are around in society.

Here Carol draws on the wider discourse that both gender role models are indeed necessary for adequate parenting (Clarke, 2004) and that it is a social requirement that same-sex parents are expected to provide a 'virtual heterosexuality' (Hicks, 2006, p. 89) and to ensure that their children acquire traditional gender roles through contact with male and female figures. Carol's mention of single parent families and families where one parent works away from the home seems to open up the potential for homes where there are not both male and female genders present. However, there is still the assumption that children need both gender role-models somewhere in their lives.

Josie, in a different discussion, drew upon an alternative discourse that recognises that the skills of nurturing children may appear in someone of either sex:

Josie: It's the loving skills, it's the parenting skills, it's the nurturing skills, the enabling skills,

the affirming skills, that can be in men as well as in women.

There were murmurs of agreement from the group following this dramatic repetition of the word "skills" to present a strongly affirmative viewpoint. A similar point was made by Leila, below, when she compared 'good' same-sex parents to 'bad' heterosexual parents (those who are abusive or in violent relationships). In the above example "skilled parenting" is detached from the gender of the parent. Below it is detached from their sexuality. Same-sex parents may be skilled and opposite-sex ones may not be.

Leila: I think once they got older I think they would probably value them for being the parents that they were, (Viv – yes) but in that transition from, thinking about my own kids, they had to be the same as everyone else's but that may be short-lived and maybe that's not a good enough reason to say that, to deprive them of having children and deprive the children of having really good loving parents, probably much better than heterosexuals who row and fight and there's abuse and that.

Here Leila also suggests that same-sex parents may be preferable (or not preferable) at certain stages of development, reiterating the discourse of concern about peer-bullying, but limiting that only to a certain period of a child's life. Here she draws upon her own 'expertise' as a parent to demonstrate that the period where children "had to be the same as everyone else" is short-lived.

Some participants recognised that society makes parenting difficult for same-sex couples, rather than the couples themselves being problematic. Colin responds that it is society "out there" that has the problems:

Colin: Yes. I think there's a few doors to be knocked down. I mean I do take that point that you know you can have same-sex couples in a very committed relationship and you know any kids of that, you know, might get double the love you know,

Maureen: That's true!

Colin: (continuing) as opposed to a whole load of sort of people who we see through our doors being bloody miserable and kids ignored and goodness knows what else. So you know, I know what choice I would make, but it must be hard because you are sort of knocking down sort of doors and prejudices there. I am sure that they are still there.

Again, the construction of 'good' same-sex parents versus 'bad' heterosexual parents is deployed here. However there are also elements of Hicks' (2000) good/bad same-sex parent discourses where 'good' same-sex parents are presented as being in "committed relationships" (a common heterosexual ideal, Barker & Ritchie, forthcoming 2007). There is no recognition that the open relationship structures common within LGB communities (Blumstein & Schwartz, 1983) may provide an alternative framework for parenting (see Pallotta-Chiarolli, 2006).

*"Risking the Kids" Versus "Double the Love"*

In this final section, the ways in which dominant discourses are presented and challenged is examined in relation to one particular discussion of the use of in vitro fertilisation and donors in same-sex parenting. This provides a particularly good example of homophobic and heterosexist discourses being resisted within dialogue between participants.

Reservations regarding IVF were expressed strongly by Maureen:

Maureen: I'm not sure. I'm confused about that erm because I think that there's so much going on in our society in terms of in vitro fertilisation and erm insemination by donor and now it's beginning to be understood that children do have difficulties if they have been born through erm

M.E: IVF.

Maureen: (continuing) Yes, and so I'm not sure about what would happen to the children erm living in erm a gay or lesbian homosexual - I'm struggling with the language as well aren't I? - relationship and for me I don't think we can take risks with the children.

Maureen uses generic vagueness' as a stake inoculation device – "I'm not sure" – and pauses before presenting the view that same-sex parenting puts children at "risk". She alleges that all IVF children have difficulties, but there is an additional but unspecified risk if the children have same-sex parents. Her hesitation over the appropriate language to use suggests a lack of prior exposure to LGB affirmative discourses. Maureen goes on to add:

Maureen: I'm not sure about erm (pause) gay and lesbian people choosing to have babies through a donor, because I think that's more about their need than it is about the child's

need. And I think we have to be very careful about what happens with children.

The use of the word "choosing" is key here because it presents gay and lesbian parenting as a choice, whereas heterosexual parenting is often presented as a 'natural' part of a human life or as a human 'need' (e.g. in commonly accepted developmental psychology perspectives, Barker, 2007). The suspicion that something (the listener might speculate a life-threatening event) might 'happen' to the children emphasises risk and danger again.

Sheila challenges the construction of same-sex parenting as a 'choice', rather than a 'need', in her response to Maureen:

Sheila: Turning it up-side down, don't the parents-to-be, have needs and if those needs can be fulfilled, can they be considered quite deeply?

Maureen: I'm sympathetic to their needs erm, but I think the rights of the children have to come first.

Maureen expresses sympathy to the parents but extends the discourse to include a child's perceived 'rights'. Sheila goes on to push Maureen on whether it is same-sex parenting particularly that she sees as problematic:

Sheila: It's not that they're the same-sex carers – that's not an issue?

Maureen: I don't know whether it is or not frankly, because I don't know whether it is for the child or not. I don't know whether a child needs (pause) erm a mother and a father ideally. I mean lots of children don't have that and there's nothing we can do about it, but I think it's a definite erm decision for lesbian women for example, to choose to have a baby and I don't know that I'm in favour of that and [raising her voice] I don't know generally whether I'm in favour of it and I know it causes a lot of distress to erm couples, erm heterosexual couples who can't have babies, but I don't know whether erm our approach to it now is the right one.

Maureen pauses and uses "I don't know" as an uncertainty token (Potter, 1987) several times in her answer. This hesitancy seems designed to present her as not-prejudicial, as does her repeated mention of that she is also concerned about IVF use by heterosexual couples. However it is clear that it is the "choices" of same-sex parents that are constructed as particularly problematic as Maureen draws on the common discourse of children "needing a mother and a

father". She later brings in an authority figure to establish legitimacy, stating that she is drawing on Winnicott's (1964) theories in this contention. Sheila then asks if adoption would be acceptable for same-sex parents. Maureen responds:

Maureen: I think that would be fine actually. Yeah yeah. I think I'd be quite happy with that. But I don't feel there is a sufficient body of knowledge, I mean it's only if it happens we can get that body of knowledge, but I still don't think there is a sufficient body of knowledge for us to know what the outcome is going to be, cos children don't particularly like to be different either, do they?

The need for expert evidence and the problematising of 'difference' (implicitly referencing the discourse of peer discrimination) are deployed together here to suggest that adoption also should not be made automatically available to same-sex parents. It is interesting that Maureen's previous display of lack of knowledge about LGB issues and research (evidenced by her confusion over appropriate terminology) is replaced here by a clear expert position that there is not a sufficient "body of knowledge" on LGB parenting. Such deployment of 'scientific rhetoric' in debates on same-sex parenting was also found in Clarke's (2001) research.

The following kinds of phrases were frequently used by Maureen and Viv in their separate groups to explain how they felt when asked to think about the topic of LGB parenting:

"I need to explore that more for me."  
 "I don't know but..."  
 "It's where I've got a problem"  
 "I know its not a particularly popular thing that I've said and I need to explore it a bit more, but that's how I feel about it at the moment."  
 "No, no I'm realising that now as I think about it."  
 "I'm not sure. I'm confused about that erm..."

It seems, from this, that the challenges being made to the positions they took encouraged them to self-question and potentially offered alternative discourses for them to draw upon when discussing these issues.

### Conclusions

The majority of the focus group participants were broadly affirming of same-sex parenting, acknowledging that societal prejudice was the major problem facing same-sex parents and

their children. However it appeared that heterosexist and homophobic societal discourses are still drawn on, particularly by some of the older and more experienced counsellors (supporting Galgut's 1998 findings). It is concerning that these counsellors, a few of whom were supervisors, relied strongly on limited personal experiences of LGB people, or on pathologising psychodynamic discourses (Milton, Coyle & Legg, 2005) to inform their discussion.

The dominant discriminatory discourses highlighted by Clarke (2001; 2005; 2006) and others were found across all the discussions: the discourse of the need for both gender role models and the discourse of concern about children's discrimination at the hands of their peers. However, these were challenged by liberal discourses that children of same-sex couples have other role-models in their lives from both genders, and by more critical discourses that presented 'parenting skills' as not being tied to gender or sexuality, and proposed that children of same-sex couples may experience 'double the love'.

It was evident that none of the participants in any of the groups were aware of research spanning the last twenty-five years on same-sex parenting and its outcomes (e.g., Golombok, Spencer et al., 1983; Golombok & Tasker, 1996, 1997; Stacey & Biblarz, 2001). Although 'scientific rhetoric' was employed (Clarke, 2001), this was to advocate caution about same-sex parenting rather than to support it. It is therefore important that future training incorporates this research and makes it available to counsellors and therapists. Ritter and Terndrup's (2002) handbook of affirmative therapy includes a detailed chapter on therapy with 'families with a gay, lesbian or bisexual parent' which may be useful, as may the American Psychological Association (2000) guidelines which also mention parenting.

Discourses of 'parenting rights', what is 'best for the children' and 'good' versus 'bad' parenting were employed across both discriminatory and affirmative accounts of same-sex parenting to support the positions being offered. Even in affirmative accounts, heteronormative assumptions were perpetuated that 'good' same-sex parents would be close to heterosexual ideals (Stacey & Biblarz, 2001), particularly in relation to monogamous commitment. It is clear that training in this area needs to cover the

diversity of LGB lives and communities rather than simply presenting a normalised version of these.

The organisation whose members took part in this research continue to develop their counsellor training on issues of practice with LGB clients. Given the present study it seems particularly important to direct older counsellors to ongoing professional development in this area rather than focusing purely on those new to counselling.

It should be recognised that participants in the research were only a proportion of the counsellors operational (in 2003-2004) and it must be acknowledged that others in the organisation may have spoken differently. Further research could usefully examine the organisational literature, training material and workshops of such organisations in detail, to explore which discourses are perpetuated and challenged on an institutional level, and how these relate to counsellors' own accounts.

The safety of the focus groups seemed to enable participants to be open with the more discriminatory discourses that they drew on, giving others an opportunity to challenge these and offer more affirmative discourses. Those who acknowledged their own doubts, confusions and prejudices frequently recognised that they needed to change these. All the counsellors asked for more training and expressed that, given the lack of this, they found the focus groups beneficial and wished they could have more time to discuss these issues. We suggest that focus groups themselves can be a useful way forward for LGB awareness training of relationship counsellors, "making the unspeakable not only speakable but also accountable" (Peel, 2002, p. 260).

### Author Notes

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## BABY LOVE: GAY DONOR FATHER NARRATIVES OF INTIMACY

PAUL VAN REYK

"I'm not a test-tube baby, or a tar-baby, I'm a jar-baby". Jay Walker, aged 10 (Walker, 1995, p.61).

There's been an outbreak of love of late in the gay and lesbian communities in Australia. It hit me most delightfully when two gay men and two lesbians announced the birth of their boy in the gay community newspaper, the Sydney Star Observer (11 October 2001). The display advertisement (featuring a cute solarised image of a baby's face) was placed next to advertisements for a funeral home, skin care supplements for men (featuring a cartoon of a naked man with lumberjack boots, peaked leather cap and a small towel placed across his arse) and a photography studio specializing in "acting & modelling portfolios and fine art portraits". Right there, all the promises and contradictions of the phenomena are encapsulated. Two gay men are positioned in the community's media as other than sex addicts, body fascists, male separatists and victims of HIV/AIDS. That alone is call for celebration. But there is a more profound challenge in this announcement, and that is to the heteronormative constructions of gay men, fatherhood and family.

Since the mid 1990s, there has been considerable international interest in, and reportage of, lesbians choosing to have children either as single parents or within lesbian partnerships through donor insemination. This has led to a burgeoning literature speaking to both lesbians and the public. In Australia, two publications were of particular importance – *Mothers and Others* (Borthwick & Bloch, 1993), a legal, medical and psychosocial primer, and *Beyond Blood* (Bradstock & Wakeling, 1995), a collection of writings by lesbians, gay men, and the children of both. In 1993, the Sydney Lesbian and Gay Mardi Gras festival included two photographic exhibitions about lesbian mothers. Over the following ten years, discussions about lesbian parenting have occurred from time to time in lesbian media such as Sydney's *Lesbians on the Loose*, fuelled on occasion by high profile dykecons like the US singer Melissa Etheridge going public about being a mother.

In 2002, the NSW Gay and Lesbian Rights Lobby (GLRL) conducted a review of available research on lesbian and gay parenting from Britain, the USA and Australia through the 1980s and 1990s. This showed that the vast majority of lesbian mothers now having babies are doing so through donor insemination, in contrast to earlier days when most would have had children within heterosexual relationships, as would most gay men (GLRL, 2002). There has been a growing international literature on gay fathers in which the stories of donor fathers are documented and discussed (Barret & Robinson, 2000; Denborough, 2002; Drucker, 1998; Lehr, 1999; Martin, 1993; Strah, 2003; Wells, 2000). There has, however, been little written about gay male donors in Australia. Both of the earlier Australian books referred to above had pieces written by these men. The only other piece was an article I wrote for the Sydney gay newspaper *Capital Q*, subsequently reprinted in *Beyond Blood* (van Reyk 1992, 1995).

What follows draws on my own experiences, as well as on interviews I have conducted with gay male donor fathers/co-parents in Sydney. Let me introduce the interviewees, names disguised to protect their privacy. Greg and John have been together for half a dozen years. They've recently had a child with a lesbian couple, who they were introduced to specifically so the four of them could have a child in a strictly 50:50 co-parenting relationship that's been negotiated through a detailed written agreement. They're already planning how to fit in tuckshop duty. Andrew is a single gay man who has a baby girl born to lesbian mothers in another city. The challenge for him is forming a non-co-parenting relationship that still meets his emotional needs as a father - needs he had no idea of 'till he held his daughter for the first time. David and Gary are a young gay couple who have had a child with a single lesbian. The relationship between the three parents has deepened well past what they had planned, as has the extent of co-parenting between them. Gary, the non-donor male, had misgivings initially, but now almost gets more from the relationship with the child than does David. And then there's Simon, who thought he could remain anonymous from his daughter even while baby-sitting her but couldn't keep it up as their relationship

deepened and he saw more and more of himself in her.

### It's Only Words

I now want to consider a range of ways of talking about the relationships of donor dads (of whom I am one, with six children). In 2002, I had a very public coming out as a gay donor father in the major metropolitan daily, the *Sydney Morning Herald*. A day after my story was carried this letter appeared.

A sperm donation and the odd get-together is hardly the stuff of real fatherhood. Glibly using the terms "father" and "parent" to describe Paul van Reyk's role in the lives of the six children he has sired devalues the day-to-day, hands-on involvement, which truly defines fatherhood (Colin Andersen, *Lapstone*, 4 December, 2002).

Does he have a case against me or not? Who decides who's a father and what is expected of him? If the mothers, the children, all our relatives and friends all treat me as the father of the children, is that enough? How would the Colin Andersens of the world view the roles played by the other men in this article? It *is* only words, and at the same time it is very powerfully not *only words* that get in the way of describing the relationships we men have with our children and their mothers.

Reclaiming language has been a part of all projects for securing the rights of gay men and lesbians. Reclaiming the words gay, poofster, faggot, dyke, lezzo, queen, queer continue to be powerful elements in the construction of the individual gay man and lesbian and in the construction of alternative social positionings more broadly. While reclaiming or reconstructing the term "family" has been part of that agenda, it was probably not until the early 1990s that we began the public push for the recognition of our myriad relationships within "family". Undoubtedly, that lesbians in increasing numbers were having children was a stimulus to this, as was the parallel agenda for recognition of gay and lesbian partnerships and marriages.

Also noted as significant has been gay men's response to the AIDS crisis, where care and support could often not be found in the biological family (Stacey, 2002). In Australia, the issue came to a head in 1994, the International Year of the Family, when the Sydney Lesbian and Gay Mardi Gras adopted the theme "We are family" (Harben, 1995).

Carrington (1999) conducted a study of "family life" with 52 lesbian and gay families. He concluded that the participants used the term in diverse and contradictory ways, from situation to situation. But there was one constant: "In my analysis the crucial element for defining what or who constitutes a family derives from whether the participants engage in a consistent and relatively reciprocal pattern of loving and caring activities and understand themselves to be bound to provide for, and entitled to partake of, the material and emotional needs and/or resources of other family members" (Carrington, 1999, p. 5).

That last observation is the crux of the construction of family that gays and lesbians have pursued through campaigns to have our relationships recognised by the state. It is also at the heart of recent writing about the construction of non-heteronormative family more generally (see, for example, Harben, 1995; Lehr, 2000; Perlstein & Hughson, 2000; Stacey, 2003; Wakeling, 1995). To emphasise this constructionist perspective, some suggest that we think about family no longer as a noun but as a verb – family as an activity, a doing (Stiles, 2002).

More recently, activists and researchers have begun to consider how to term the kinds of relationships gay men are developing to donating and child-rearing. The GLRL drew up a schema for classifying the broad roles gay men are playing in the parenting game for the purposes of discussing legal reform (GLRL, 2002, see Table 1 for more detail).

Table 1: *Roles Gay Men Play in Parenting*

Step-father	Parenting a child who was born to his partner in a previous relationship.
Co-fathers	Non-biological fathers who are co-parenting a child from birth with a male partner who is the biological or adoptive father.
Known donors	Biological fathers through donor insemination who know, but have little involvement with, a child they have helped create.
Donor-dads	Biological fathers who have some involvement, and regular contact, with their children.
Co-parenting	Biological fathers who are very involved with their children, and some sharing of responsibility.



Martin draws a distinction between a donor as someone “who helps in the biological creation of a child but has no parental involvement” and a father who has “an ongoing relationship with the child which involves care and decision-making” (Martin, 1993, p. 80).

These neat distinctions don’t play out in donor dads’ lives. Our narratives show us moving across these categories at different times, and in some cases inhabiting more than one category at any one time. Invariably, this is a response to the reality of a child. “The majority of difficulties occur because – no matter how much people prepare in advance for the scenario they imagine they wish to live – inevitably the unexpected occurs.... The families we are creating are truly works in progress” (Perlstein & Hughson, 2000, p. 125). The change might come from the donor’s shifting emotions, but equally might come as a result of the development of the child. “Men who agree in good faith to be uninvolved sperm donors often find that reality hits them differently ...once the child is three or four or five, and establishes an independent relationship with him, the child’s feelings for him may determine a designation of ‘father’” (Martin, 1993, p. 86).

Gary had not expected he would ever have children, but his partner David had always planned to have children. When David agreed to be donor to a friend, the original agreement was that there would be no involvement from David and his partner Gary in parenting the child. Gary “had serious reservations about that, both with my lawyer hat on and also my you-are-kidding-yourself-if-you-think-*you*-can-be-a-donor-and-this-is-not-going-to-lead-to-something-else hat on. David’s a sook and adores children.” Gary’s prediction was right. “We have her every Tuesday and then every third weekend. At first she slept in our bed, sometimes we made a bed up on the floor. And even now she’ll get up at seven and come and crawl into our bed”. But Gary had no idea how things would change for him, too. For him, there was a long time after the child’s birth when “it was sort of my life because it was David’s life”. But things changed fundamentally for him when the child was 15 months old. “That time we went on a picnic with some friends, when she took a strawberry from her mouth and put it in my mouth and I ate it. I thought ‘I’m doing this, and it’s disgusting. But I just went – OK, this is real for me too’. Now “She’s become my child. On the one hand because she’s so important to David, but that’s

actually not it really. I have a very different relationship with her. We have a fantastic relationship ... we’re sort of sassier with each other and cheekier with each other, more than we would do and she would do with him”.

As there is an acknowledged danger in buying into heteronormative definitions of ‘the family’ as we pursue our partnerships and marriages agenda, so too there is a danger in buying into the available heteropatriarchal definitions of fathers and fathering. Lehr (1999) cautions that positioning oneself as a gay father these days is inescapably done in a discourse on family that is re-asserting the essentiality of fathers in families. She points to US writers such as David Blankenhorn who assert that the solution to “fatherlessness” is integral to the solution of many social problems:

Fatherlessness is the most harmful demographic trend of this generation. It is the leading cause of declining child well-being in our society. It is also the engine driving our most urgent social problems from crime to adolescent pregnancy, to domestic violence against women. (Blankenhorn, as cited in Lehr, 1999, p. 46)

In August 2003, Lee Matthews outed himself as a gay man who is co-father (with his partner) of an eight-month-old boy born to a surrogate mother in the USA. The story was carried in the *Sydney Morning Herald* and included this response from Bill Muehlenberg, spokesperson for the Australian Family Association:

Some people have said it’s a form of child abuse to bring a child deliberately into the world without a mother and father. Every child has the rights to its own mother and father, not two dads, not two mothers and not a committee. We wouldn’t deliberately bring a child into this world and deliberately lop off its arms and its legs, which is what we are doing with these kinds of arrangements (Farouque, 2003).

Lehr argues that what is being conflated here is the individual as a biological father and the functions of fathering, and that the radical construction of the family would argue that what is needed is the ‘doing of fathering’, and that this can be done by either a male or a female. But this brings us back to the question posed by Colin Andersen’s letter of ‘what fathering is’.

### Some Kinda Loving

I want to step right out of that deadlock as of now. I began this article by talking about an

outbreak of love, and I have deliberately described this article as 'narratives of intimacy'. In doing so, I take a very conscious stand against those who want to discuss gay men as fathers and parents within a discourse of normalisation – "relationships that closely parallel those created by heterosexual couples" (Barret & Robinson, 2000, p. 6.). I do this to try to avoid embedding the lives of myself and the other donor dads in the mire of heteronormativity. This is the same critique raised by Budgeon and Roseneil (2002) in contextualising their work in a British research project on friendship and non-conventional partnerships. Having looked at a number of reconstructions of family, Budgeon and Roseneil (2002) find them insufficient to understanding "the contemporary and future experience of intimacy and care for two reasons. First, they leave unchanged the heteronormativity of the sociological imaginary; and second, they are not grounded in an adequate analysis of contemporary social change" (p. 4).

Budgeon and Roseneil argue that one area within which to analyse these non-standard intimacies is in the relationships created by gay men and lesbians. "There is considerable evidence from sociological and anthropological research to suggest that friendship, as both a practice and an ethic, is of foundational and particular importance in the lives of lesbians and gay men" (Budgeon & Roseneil, 2002, p. 5). They emphasize the fluidity of lesbian and gay relationships across friendship and sexual boundaries.

Stacey (2002) extends this to relationships of care.

Gay men ... occupy an outpost frontier of what I term the postmodern family condition – the world after the modern nuclear family system eroded where no culturally mandated family pattern prevails and all forms of intimacy contend with instability, reflexivity, cultural conflict, contradiction and experimentation ... (they) face formidable barriers to family formation. They cannot rely on biological, cultural, institutional or legal resources through which kinship historically has been constituted, nor draw upon traditional principles of genealogy or gender. Necessarily, gay men forge their ties in unusually reflexive and experimental modes which expose the pitfalls and promise of conditions with which all contemporary family projects must contend ... the AIDS epidemic subjected gay male sexuality to extraordinary levels of collective scrutiny and debate, and it incited gay men to perform

Sisyphian levels of caretaking outside the default mode family forms ... gay men experience in perhaps its purest forms what Giddens terms the "pure relationship" of modernity – the pursuit of a relationship for the sake of intimacy alone. They confront its inherent contradictions in magnified scale – the incongruous, historically gendered demands of eros and domesticity, passion and commitment, the masculine world of "sexual sport" and the feminine world of "cards and holidays".

The establishment of organisations in Sydney such as the Bobby Goldsmith Foundation, Ankali, the Community Support Network, and the Luncheon Club and Larder, are excellent examples in practice of what is described by Stacey - gay men self-organising to provide emotional and practical care and support to each other outside of kin relationships and outside of sexual relationships. They are, in the words of Budgeon and Roseneil (2000), practices that "de-centre the primary significance that is commonly granted to sexual partnerships and mount a challenge to the privileging of conjugal relationships".

And it is here that my world and the world of Budgeon, Roseneil, Stacey et al collide. The relationships that we gay male donor dads, our children and their mothers (in most instances) are constructing are complex relationships that are equally *not* based on sexual nor conjugal relationships. Instead, they privilege the nurturing relationship to the child as the nexus of the dyads, triads, polyads and other geometries of these brave new worlds of intimacy and care.

### **Instructions for Making a Gay Man**

'But gay guys don't want/like kids, do they? Isn't that one of the advantages to being gay, even one of the reasons they are gay, that somewhere they lost this natural need to reproduce? I mean, it's a little sick when you think about it, what with paedophiles and all.'

That's a story some of us told ourselves.

Years ago I thought children would never play a significant role in my life. I thought gay people had a destiny and a calling that was totally separate and outside the bounds of family and child-raising. I called heterosexuals "breeders", and I couldn't understand lesbians and gay men who wanted to raise children. I didn't dislike children so much as I felt disassociated from them. Children logically belonged to the realm of

heterosexuals, to people who had families. And didn't we have better things to do? (Johnstone, 2000, p. 217).

It was certainly a story we were told:

We live in a society, which pressures heterosexuals to raise children and pressures lesbians and gay men not to raise children (Martin, 1993, p. 16).

In early 2003, legislatures in Europe and Canada moved to recognise same sex marriages. At the same time, activists had been lobbying for that change in all states and territories in Australia, where regulation of marriage falls within the federal jurisdiction. The conservative Prime Minister, John Howard, weighed into public discussion of whether there ought to be such a change in August 2003:

Traditional marriage is one of the bedrock institutions of our society, and I don't want anything to occur that further weakens it. Marriage, as we understand it in our society, is about children, having children, raising them, providing for the survival of the species (as cited in Wade, 2003).

The implication here is plain – gay men and lesbians can (and I think, in the view of some, *must*) only ever have childless relationships.

Like the women who are the subject of the work of Kirkman (2002) on infertility, all of us gay dads have been engaged in "revising the autobiographical narrative" we had lived till we held our child in our arms or tasted our first strawberry from the child's mouth. "Revising implies having to reinterpret the life already lived, the goals and directions of one's life, and, fundamentally, the understanding of who one is" (Kirkman, 2000, p. 67). For some that first narrative has been one of never having children, while for others it always included the possibility of children. The shift we are making is to living in the subjunctive mode, one that "encompasses the multiple prospective plots which are possible when one is still living one's story" (Kirkman, 2000, p. 63). Unlike narratives of infertility, however, the revised narratives for us as donor dads have not been ones of consolation. The revised narratives involve us in relationships with women that we never expected to have. Who would have thought that the new frontline of coalitionism would begin with a gay man nervously jerking off in one room, while a lesbian waits patiently for his sperm in another room?

John hadn't ever felt any family pressure to have children, but says he always loved children. Growing up gay in Adelaide in the late 1980's was an isolating experience: "The only role model I had for being gay was Mr Humphries in *Are you being served?*". When he came out in London in his mid-20s he "mentally said goodbye to being a father and that was really sad for me. It was one of the hardest things about coming out." Greg had always expected that he would have children and coming out didn't change that for him: "I just thought, well all you need to do to have a baby is to put sperm and an egg together, you don't have to have a marriage". They have been partners for 5 years and began talking about having a child right from the start of the relationship. John had to revise his narrative of social infertility "because Greg had never really given up on that chance". They wanted to enter into a 50:50 co-parenting formal contract with a lesbian mother. The woman they were introduced to "took a while to come around to that idea, but she is a very independent woman, with her own creative career that she wants to develop and so she began to see real advantages to shared parenting". Co-parenting 50:50 means "responsibility to take care of the child - so every second week-end, or every second week day - it's not a rigid set-up, it's flexible. Finances - basically 50:50, but if there's a wage disparity then the people earning more money pay a little bit more. That's on the big expenses, not the day to day: when the child's in our home, we feed it, clothe it, do outings and such." They and the mother were open to either of them being the biological father. They flipped a coin, Greg won first toss and was immediately successful. They and the future mother have grown closer over the period of the pregnancy through talking about arrangements for the future. At the time of interviewing them, John and Greg were a few weeks away from becoming fathers.

Andrew had never had much contact with children until recently when heterosexual peers began to have children. Then a good friend with whom he had worked asked him to be a donor. "It never really occurred to me that it was something I might want to do until she asked me and even then it wasn't a real desire for it. I thought she and I would have an interesting kid." When he was first asked she was not in a relationship and had anticipated that Andrew would be involved in parenting, though she lived in another city. Andrew at that time was uncertain that he could play that role,

particularly economically. Four years later, when they began the process, she was in a settled relationship and Andrew was no longer certain about what was expected of him or what he expected of himself. As the woman lived in another city, he had little contact with her during her pregnancy. It was in the hours before the birth that things began to change for him dramatically. As he waited for the call to the hospital, he became more and more anxious and frantic. "I wanted to see him there and then. I don't know why. And when I saw him, I instantly calmed down. I thought he looked like a baby photo of me. I thought he looked really beautiful. I didn't want to leave the hospital." I spoke with him a few weeks after the child was born, when he had returned to Sydney. They had been weeks of confusion for him – should he call to find out how the child was, should he go down and see the child? What did he want from the relationship for the future? "I think what it is with me, is that it's a type of emotion you don't know. You know when you are becoming friends with someone. You know when you are falling in love with someone. You know when you're being hurt in a relationship. I don't know this one. When I saw him last, which was eight days ago, when I was about to leave I very suddenly burst into tears." Andrew has begun living in the subjunctive mode. "I feel that there was something about placing one line there through the rest of my life. I don't feel bad about this, I just feel like I'm going to be more involved than I had ever imagined. I don't know quite how or when or what shape that will take or how it will feel because I don't know these emotions, but there is something very strong there."

Like Andrew, Simon had not narrated a future for him with children, though he had had a lot of contact with his nephews and nieces and enjoyed being with them, a common experience for all of us gay donor dads. "I have had conversations with other gay men who would say that all they wanted to do was have children but it wasn't going to be possible or how would it happen? Really regretting it. I hadn't really thought about the issue of children and being gay - I hadn't thought immediately that precludes me having children. It just hadn't emerged. My creativeness I felt was in my work" (Note the framing of having a child as "creativity"). When asked by a colleague to be the donor, he saw it as "doing someone a favour". The woman was in a strong relationship, which he felt "was a good one for a

child to be in". The mother wanted the child to know Simon and for him to have contact with her, but not acknowledge him as her father. He had no contact with the mothers during the pregnancy, nor for some time after the child was born. "I was just sort of curious, and I hoped things went well. But I was quite detached about it. There was no sense of a change of reality for me". When he did begin seeing the child, things changed significantly, "when she got beyond being a little baby into a little person she would glue herself to me". Simon began to form an independent relationship with the child. She began to ask him if he was her father. He became increasingly upset at not being able to tell her who he was, and entered therapy. When she turned five, Simon insisted she be told. "She's six now. She's started school and for the first time during each holiday I've been able to spend a day with her and she's started to raise issues with me about my family. We share something in our natures. She claims me and I think that it's important that she's able to do that for her own sake because I think she'll be more at home in her own nature through that". He hopes and works for the time he'll be able to make contact with his daughter without it being mediated by her mothers.

Then there's me. I don't ever recall wanting to have children, feeling like I had to have children, or missing them when I came out as gay. Now, I have six children through donating, spanning the years 1983 to 2001. The mother of the oldest girl is a close friend I once had a brief heterosexual relationship with, though the child was born well after that; it was a promise we once made to each other. Two boys were born to a lesbian acquaintance in a relationship where her partner had already had three children from a former marriage. Both were consciously political acts, as at that time lesbians did not have access to donor insemination via clinics. A girl was born to a heterosexual couple who are friends, where the husband's sperm count was low and they did not want to pay for the donor insemination. My last child, a boy, was born in 2001 to a single heterosexual friend of mine; her original donor fell through and I offered. Finally, another girl was born to a lesbian couple – another political act – with whom I have had no contact since the successful donation. That girl has a picture of me and my contact details, but to date has not initiated contact. Somewhere between girls two and boy three, I decided I liked being a dad and the politics and the personal were fruitfully resolved.

The children I am in contact with know me as their biological father, and know each other to be kin. The children and their mothers have met each other regularly since birth for their birthdays, my birthday, Father's day, outings with me, and outings together. My roles in each set of relationships are quite different, but I am not significantly financially responsible for any of them, and their major life decisions remain with the mothers.

The mothers of my children and I all agreed early on that we would remain flexible around the levels of intimacy and care I engaged in and that as the children grow they will have the greater say in that. That has meant late night calls asking me to come and have a look at a boy child's problems with peeing; calls to come and sit with a child who is ill and asking for me; having an emergency visit from a child who was bewildered and distressed that I had moved from the house he was familiar with to a house he had not seen; and having my adult daughter live with me at last during her first year of university. The idea of being "dad-on-demand" is kinda nice.

### **Get Your Laws Off Our Bodies**

But all these relationships, and those for dads, mums and children yet to come are fragile, not because there is danger in living subjunctively, revising ourselves into and out of each other's narratives, nor because our children's narratives will also increasingly plait into the golden braid.

Laws covering infertility treatments in all legislatures in Australia at present were framed within a heteronormative assumption that it would be heterosexual women in settled relationships who would seek access to them because they were clinically infertile and that this would be via approved clinics and practitioners. In New South Wales, the law has been interpreted more broadly to give access to single women and some lesbians have accessed donor sperm this way. In 2000, a single heterosexual woman challenged the Victorian Infertility Act on the grounds of discrimination and was successful. The Infertility Treatment Authority of Victoria, in its comment on the ruling, made it clear that the Act was still off limits to lesbians or other women who elect to go the donor route although they are fertile (Infertility Treatment Authority, 2003).

A consequence of the heteronormative framing of these Acts is that donors have no legal responsibility for their child. It is the husband or male de facto partner of the woman accessing the treatment who is recognised at law as the child(ren)'s father for all legal purposes.

Gay and lesbian activists are now advocating for parenting rights in the context of pursuing the wider agenda for the recognition of gay and lesbian relationships. The GLRL (2000), in discussing the legal implications of the positioning of lesbian mothers and gay donor fathers in New South Wales, identified four areas in which the present lack of legal recognition of the non-biological mother, where one exists, and of the donor/male co-parent raises difficulties for all parties, including the children. Those were inheritance, child support, contact and residence, and parental authority in matters like schooling and medical care.

Addressing these will undoubtedly provide at least financial guarantees if not immediate benefits to mothers and children. But there's a downside to that, too. In 2001, a county court in Sweden ordered that a gay male donor to a lesbian couple with whom he was a friend resulting in three children pay child support when the lesbian couple separated. This was despite Swedish law not recognising a sperm donor as the legal parent of his biological children. The Western Australian government has raised the possibility that men who donate sperm allowing single women to give birth could be liable for child support (Butler, 2002). As at mid 2003, gay men who are donors have a range of agreements with the mothers on financial support. For some of the mothers, it's clearly beneficial not to have to acknowledge any financial support from the father. I know of at least one case where a single heterosexual woman with a child by a gay man is very cautious about just who knows that the donor is known to her because she is currently accessing child support. This income would be threatened if the Commonwealth chose to insist that the father, being known, ought to be responsible for some maintenance, a situation neither she nor the gay man wants to occur. There is a risk here that women and men who come together only for the purpose of donor insemination may become financially enmeshed in what will no doubt be waggishly called non-sexually transmitted debt.

Benefits that might accrue to the emotional well-being of the child are more moot. The GLRL (2002), in its review of the literature on gay and lesbian parenting found that, in virtually all families, the lesbian mothers were the 'primary parents', having residence of the child, giving primary care and exercising parental responsibility by making all important decisions about the child (where they lived, school, medical care etc.). It also found that disputes between separating mothers and co-mothers over issues of residence contact and child support appear to be more common than disputes between mothers and donor-dads over contact.

Being legally recognised as a parent brings the father under the jurisdiction of the Family Law Act, and deems the father jointly responsible for the child. This does not automatically determine residence and contact issues. Under the Act, either parent can seek a parenting order, which then sets these things out. However, the Act is also accessible by any one who has an interest in the child's well-being, whether or not he or she is the recognised parent. That is, donors can seek a parenting order under the Act. In January 2002, the national press reported that a gay man in Melbourne was taking action through the Family Court to be granted visiting rights to a two-year-old boy who was born from his donation to a lesbian couple. In April, the Court ruled in his favour. The presiding judge, Justice Guest, commented that laws dealing with children born from artificial insemination failed to recognise the diverse ways people form families these days (Szego & Costs, 2002). Soon after the judgment was handed down, the birth mother killed herself and the child. The decision of the Court reflects the pressures from a growing movement among heterosexual men to assert their perceived rights in relationship to their children. The consequence is a sobering lesson for us all of the risks we run when we contest our alternative models of intimacy through patriarchal structures.

### **Conclusion: Blows Against the Empire**

I have argued that gay men and lesbians have always been engaged in exploring alternative modes of intimacy because heteronormative and heteropatriarchal modes of relationship cannot meet our emotional needs. Since the early 1970's we have been engaged in pursuing a civil and human rights agenda to have these modes legalised, and so obtain for them the protection

of the state and the benefits for them conferred by the state on heteronormative relationships. Until recently, our focus has been on our partnerships, and we have secured significant ground in Australia in this area. It is to our credit that we have done this, by and large, while successfully negotiating the balance between protection and control.

As more gay men and lesbians enter into complex child bearing and child rearing relationships, we move into territory that is increasingly more contested and volatile. Our challenges in negotiating this territory, balancing protection and control, are greater. I believe we can meet these challenges if our activism is informed by two tenets. The first is that we deploy the language of intimacy, support and care when describing the relationships we are building, and resist the impulse to deploy the language of conjugality and consanguinity. The second is that we place the child at the centre of the relationship and strive at all times to arrive at decisions that are for the child's benefit, no matter at what cost to ourselves.

### **Author Note**

Born a Sri Lankan Burgher (think a Dutch equivalent of an Anglo-Indian), I've called Sydney home for 40 plus years. Qualified as a social worker in the mid '70s when I really wanted to be a journo. Came out in 1979 as a member of the organising collective for a National Homosexual Conference and never looked back. The next two decades saw me involved as a leftie activist in NSW gay law reform. Began free-lancing for Sydney and national gay community media and continue to do so, and am a frequent harasser of pc-ism in the Sydney gay community via narky letters to the press. Co-edited *Queer City. Gay and lesbian politics in Sydney* (with Craig Johnston, 2001). Take every opportunity to spruik my take on our lives at conferences, seminars, debates. Began having kids in 1984 but have really, truly stopped now. Now also a freelance food writer and caterer. Day job as a policy and programme consultant in the human services.

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## REFORMING LAW, REPRODUCING DIFFERENCE: DEFINING LEGAL PARENTAGE OF CHILDREN BORN THROUGH ASSISTED REPRODUCTIVE TECHNOLOGY

KATE FOORD

### Overview

Since 2002 the Victorian Law Reform Commission (VLRC) has been examining the desirability and feasibility of expanding eligibility criteria for assisted reproductive technology (ART) and adoption in Victoria. This article is a response to the VLRC's interim recommendations on access to ART, as published in *Assisted Reproductive Technology and Adoption: Position Paper Two – Parentage*.<sup>1</sup>

This article was written initially in the form of a submission to the inquiry and is reproduced here with the addition of contextualising information (marked by italics) and footnotes. I worked on the inquiry from 2002 until August 2005 when I decided to make a formal submission to the inquiry in opposition to key recommendations proposed in *Position Paper Two*. As a VLRC staff member I was prevented from making a submission, and so I resigned from my position as research and policy officer in order to do so.

In my submission I argued that, if implemented, the Commission's recommendations would continue discrimination against same-sex couples -that they failed to apply equal legal recognition to all people who become parents through assisted reproduction and retained a profound differentiation between heterosexual and same-sex couples against the Commission's stated aim to eradicate such discrimination.

The text following is my critique of the Commission's recommendations in *Position Paper Two*, beginning with a discussion of Interim Recommendation No 1: 'the law should recognise the birth mother's female partner as a parent of the child'. In assessing the options for achieving this recognition, the Commission

<sup>1</sup> Victorian Law Reform Commission, *Assisted Reproductive Technology and Adoption: Position Paper Two—Parentage*, Melbourne: VLRC, 2005. This publication can be accessed electronically from the VLRC's website at [www.lawreform.vic.gov.au](http://www.lawreform.vic.gov.au). All the VLRC's publications are available electronically, or are sent in printed form on request by phoning 03 8619 8619.

nominated five considerations, and below I consider each of these in turn. The Commission noted that, of these five considerations, it was particularly concerned that its "proposed mechanism for achieving legal recognition would have effect under federal law" (VLRC, 2005, p. 18).<sup>2</sup>

In the context of the interaction between federal and state law, the Commission decided that adoption "should be the mechanism by which the non-birth mother becomes a legal parent of the child, albeit with important modifications" (p. 19). Equality of outcome, it was argued, "could only be achieved through a mechanism that is different to that applied to heterosexual couples" (p. 19).<sup>3</sup>

The Commission proposed 'deemed adoption' as the means to achieve "equality of outcome". It proposed to allow same-sex partners of women who conceived within the clinic system to be deemed to have adopted the child at the time of the birth of that child, and further recommended that this form of adoption be available *only* to same-sex couples who conceived through the licensed clinic system in Victoria. Deemed adoption, the Commission argued, should *not* apply to women who conceived through self-insemination outside the clinic system (VLRC, 2005, p. 22–23).<sup>4</sup>

<sup>2</sup> In *Position Paper Two* the Commission did not consider the possibility that recognition may be achieved through Section 69R of the *Family Law Act 1975* (Cth). On the provisions of this section, see Millbank, 2006b, p. 52 and the article by Short in this issue.

<sup>3</sup> Legal definitions of parenthood are contained in State and Territory legislation. So too are the legal definitions of parenthood achieved through assisted reproductive technology. People in opposite-sex relationships who have a child through ART in Victoria have their status as parents defined in the *Status of Children Act 1974* (Vic).

<sup>4</sup> Other states and territories have reviewed their laws with respect to same-sex relationships and related parentage issues. For comprehensive analysis of these changes, see Millbank 2006a and 2006b.



### **Submission to the VLRC's Reference on Access to Assisted Reproductive Technology and Adoption in Victoria<sup>5</sup>**

In attempting to ensure that the law should recognise the birth mother's female partner as a parent of the child, the Commission nominates the following as (the first of its five) central and relevant considerations.

#### **(1) "The importance of ensuring that legal recognition is enduring, comprehensive and operative under federal legislation" (VLRC, 2005, p. 18)**

The most effective way of providing *comprehensive* recognition of parenthood is to use all mechanisms that define legal parenthood for heterosexual people to recognise the female partner of a birth mother. The path for comprehensive recognition therefore is to amend all relevant state legislation that deals with the definition of parents who conceive through ART, in particular the *Status of Children Act*. In this way, the law would provide parity for all parents in Victoria who have a child using donor gametes.

The next task in achieving comprehensiveness is to seek a form of recognition that could *also* operate under federal legislation. Such a mechanism, if treated as a primary solution, does not meet the Commission's goal of comprehensiveness: that is, under the Commission's proposals recognition under state law would remain discriminatory and partial. The Commission has not made it clear why the goal of ensuring that the *Child Support (Assessment) Act* and the *Family Law Act* are operative in relation to these children trumps that of parity of recognition under the *Status of Children Act*. The primary goal should be to accord all parents equal status under Victorian law, and then to inquire how those people can be protected in the event of family dispute and breakdown. The Commission's is a narrow and legalistic solution to a major structural problem, that of entrenched discrimination. It foregoes an opportunity to make an intervention in systemic inequality, opting instead for a pragmatic solution which does not meet its own stated

aims. It is not comprehensive. Nor does it meet the goal of 'enduring' recognition: it is too vulnerable to federal intervention and, in a context in which the federal government has shown itself willing to intervene in order to prevent same-sex couples from acquiring parity with heterosexual couples, seems to invite an immediate return to the status quo.

#### **(2) "The need to provide children with legal protection as early in life as possible" (VLRC, 2005, p. 18)**

Achieving the earliest possible legal recognition for a child's parents is most effectively met by automatic recognition of parentage under the *Status of Children Act* for same-sex couples who reproduce through assisted reproduction. The child would be afforded the protection of having both their parents fully recognised as parents as early as all other children, and this is the only way in which this can be achieved *for all children conceived through ART*, not just those conceived through the licensed clinic system. As it is, the Commission has enabled early recognition for clinic-conceived children, but not for those conceived outside the clinic system. This cannot be said to be meeting the Commission's stated aim of ensuring "equality of outcome for children" (VLRC, 2005, p. 19).

If one of the Commission's anxieties is that two women may present as a same-sex couple and acquire the status of parents against the claim of a man to the place of father, solutions can be found to that particular and perhaps unlikely scenario. For example, consideration could be given to a relationships register. My general point is that there are all sorts of ways of misrepresenting facts about parentage if people wish to do so, and this is the case for heterosexual as well as homosexual people. Denying same-sex couples parity with heterosexual couples is not the solution to that problem.

#### **(3) "The importance of ensuring that non-biological parents understand and reflect on the responsibilities of legal parenthood" (VLRC, 2005, p. 18)**

Where services are provided partly or wholly through government funding and under the auspices of state institutions, it is appropriate that the highest level of protection for all concerned is achieved, and the provision of counselling through licensed clinics is one way of offering this. However, it is another thing

<sup>5</sup> This article contains the full text of my submission to the VLRC, made on 31 August 2005. Like all submissions unless authors request otherwise, it is a public document that can be made available to interested people through the VLRC.

altogether to attempt to ensure that non-biological parents in general reflect on the responsibilities of parenthood. In fact, the consequences of attempting to enforce such a provision, if applied to all non-biological parents and not just to those in same-sex couples, are unimaginable. It would be wonderful if all parents reflected on the responsibilities of legal or any other type of parenthood, but contemplation cannot be forced on people through legislation.

In order to achieve this dubious aim the Commission has made recommendations that attempt to coerce people to go through the clinic system by denying them a recognition that would be afforded to those who go through the system. I believe this is unconscionable. The Commission *cites no evidence* that same-sex couples do not give adequate thought to the needs of their donor-conceived children. Yet it proceeds with a recommendation which assumes that the only way to ensure that adequate thought is given to legal parentage is to coerce people to go through the licensed clinic system and to punish those who do not. The research actually indicates that same-sex couples give great thought to conceiving children at all, as well as to the fact that children are donor-conceived (Pies, 1990; Gartrell, 1996). In addition, same-sex couples are open with their children about donor conception where heterosexual couples overwhelmingly are not (Golombok, et al 2005). If this is the Commission's reason for this recommendation, it should be revised on the basis of the research findings. If there is no evidence that same-sex couples give less adequate thought than their heterosexual counterparts to the needs of their donor-conceived children, then there should be no discrimination between same-sex parents on the basis of whether they went through the clinic system or not.

This consideration concerns me deeply because it expresses a belief in a fundamental distinction between biological and non-biological parenthood, and between heterosexual and homosexual parenthood. Such distinctions are not supported by the available research (Golombok, et al 2005). In fact, the studies of the decision-making processes of same-sex couples in relation to having children show a considerable degree of reflection and consideration (Crawford, 1987; Pies, 1990; Gartrell, 1996). Likewise, studies of people who have gone through ART, whether homosexual or heterosexual, have found a high degree of

satisfaction with parenthood (Chan et al, 1998) and with partner relationships (Patterson, 1995). These parents do not need, any more than other parents in the general community do, the Commission's help to understand that what they are doing is undertaking a profound responsibility and inaugurating an inalienable relationship. If they fail to grasp the seriousness of this commitment for themselves, it is a human failing of which others are also guilty, and unless the Commission is to recommend counselling for all prospective parents, it must simply remain a human failing. The Commission's earlier rejection of the notion of the application of criteria for parenting ability<sup>6</sup> seems to have crept back in by stealth in this consideration.

I also think it is placing an inappropriate responsibility on counsellors attached to clinics, who are employed to advise patients and their partners on all aspects of *infertility and its consequences*, including using donor gametes. My understanding is that it is beyond the scope of their job and their qualifications to counsel people to assist them to understand and reflect on the consequences of becoming a legal parent.

A more appropriate strategy might be the recommendation of a public education campaign conducted before the implementation of legislative change, to inform people of the change in their legal status, and to inform the community at large that these changes have occurred.

**(4) "The desirability of having a simple process for attributing legal status" (VLRC, 2005, p. 18)**

The simplest attribution of legal parental status would be achieved through the automatic recognition offered by the provisions for ART parentage in the *Status of Children Act*. Under the system proposed by the Commission, same-sex parents would have to go through an assessment process before they become legal parents to their children. Not only is this *not* simple, but the Commission has not demonstrated that people will choose to go through this process. A person in a same-sex partnership is likely to weigh up very carefully

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<sup>6</sup> Parenting criteria was discussed in the VLRC's *Consultation Paper* (2003), of which I was co-author with Professor Marcia Neave and Professor Felicity Hampel.

the advantages to herself, her partner and their children of such a process before undergoing it. I consider it unlikely that the advantages would outweigh the disadvantages for many people in this situation. A second-rate symbolic recognition is not something people are likely to find an attractive offering to their children unless the legal protection it affords makes it necessary. In my view, it is possible that this will not be the case, and as a result little will change for many same-sex couples in their legal status as parents.

More importantly, many people seek from the outcomes of this inquiry more than merely a pragmatic and partial solution to the lack of legal recognition of parentage. Recognition under state law that affords to same-sex couples parity with heterosexual couples would not only be a legal fact but also a symbolic statement: that state law no longer contains provisions that discriminate against same-sex couples, either expressly or impliedly. It is only through such law reform that all people can feel themselves to be full and equal citizens.

I believe the Commission has not adequately considered or understood the effects on people *and their children* of the lack of recognition of these types of parents under state law.

**(5) "The need to avoid imposing legal obligations on people who have not consented to the procedure which resulted in the birth of the child, or have never wished to be regarded as the legal parent of the child."**

*The Commission argued that because the obligations of parenthood are substantial, it was important that the mechanism for legal recognition of the birth mother's female partner gave the partner the opportunity to decide whether she would take on those obligations. In justifying this stance, the Commission argued that the position of the birth mother's female partner differs from that of a heterosexual partner because she cannot participate biologically in the conception of the child' (VLRC, 2005, p. 18)*

*Conception within the Clinic System*

If a couple, any couple, goes through the licensed clinic system, they sign consent forms and each can be taken to have consented to becoming a legal parent. The capacity to consent in this situation is no different for

members of a heterosexual couple as for a homosexual couple; it is no different for people who are to be biological parents and those who are to be non-biological parents. Why shouldn't all parents who thus consent enjoy an equivalent form of recognition: that is, recognition under the *Status of Children Act*? The Commission has not adequately answered this question.

*Conception Outside the Clinic System*

If a heterosexual couple undergoes a form of assisted reproduction outside the clinic system, the man who is the partner of a woman is deemed to be the father of the child unless he wishes to contest this. If he wishes to contest it, he can prove he is not the father because he is not biologically related to the child. It is arguable whether this is indeed a just provision, particularly given circumstances in which that man may have believed he was a biological parent of that child and taken the rights and responsibilities of fatherhood. Using biological relation as an opt-out mechanism is a flawed law which does little to preserve the rights of children to relations with significant people in their lives.

If a woman who is the partner of the birth mother does not consent to the procedure by which conception occurs or has never wished to be regarded as a legal parent, she need simply not consent to the inclusion of her name on the birth certificate. If she does agree to inclusion of her name on the birth certificate, she has consented to becoming a legal parent, and is in the same situation as any other non-biologically related legal parent. The only difference is that she cannot opt out on the basis of the later discovery of the lack of that biological relation.

The Commission argues that it is important for the female partner of a woman to have the opportunity to decide whether she will take on the obligations of parenthood. Are these mechanisms by which the conception is consented to and the birth is registered as described above not sufficient opportunity? Why should she be given any more opportunity than any other member of a couple to decline these responsibilities? The reason given: that the obligations of parenthood are substantial. This is a patronising and discriminatory answer to the question. In my view, it in no way trumps the goal of giving parity of recognition to same-sex relationships into which a child is born. Again, the Commission has failed to consider

heterosexual and same-sex relationships on the same terms. It has therefore failed to make the correct analogies: the relevant category of people is couples who undergo ART and conceive children with donor gametes; *distinguishing between same-sex and heterosexual couples who conceive through donor gametes is irrelevant and discriminatory* (emphasis in original).

The Commission argues that the position of the female partner of a birth mother 'differs from that of a heterosexual partner because she cannot participate biologically in the conception of a child' (PP2:18). *It is precisely the biological capacity to reproduce that is absent for couples who use donor gametes, and is therefore the defining characteristic of all such parents* (emphasis in original). Couples to whom this applies are those in which at least one member of the couple does not contribute biologically to the conception of a child. The very analogy that the Commission has declared as impossible is the one that it should be making: that is, that the position of a female partner of a birth mother and a male partner of a birth mother in ART is *identical* where the question arises: how can this person, who did not provide the biological material to enable conception, nevertheless be defined as a parent for legal purposes?

The man in this position becomes a parent by virtue of his relationship to the woman who gives birth and his consent to being included on the birth certificate, not by virtue of his capacity to participate biologically in conception with his partner, a capacity neither he nor a same-sex partner of a birth mother has. In its recommendations, the Commission has therefore continued to insist that heterosexual people who undergo ART should enjoy the privileges of automatic recognition of parenthood through the *Status of Children Act* where same-sex parents should not, based not on actual biological connection but on a *virtual biological capacity inherent in their heterosexuality*. It is obvious that any law enacted on the basis of these recommendations will be open to immediate challenge (as discrimination on the basis of sexuality), and the Commission is therefore once again potentially exposing same-sex couples *and their children* to the vulnerability, expense and damage involved in undertaking legal action.

(I would also point out that on the logic of biological participation, the Commission would

need to recommend that a female partner of a birth mother who provided the egg with which that birth mother conceived should be legally recognised as the mother of that child through the *Status of Children Act*).

The Commission's proposal of deemed adoption, it argues, "mirrors, as closely as possible, the process by which the male partner of a woman who gives birth to a child born through the use of donated gametes becomes the legal partner of the child" (VLRC, 2005, p. 20). For the reasons given above, this statement is false: there is no impediment to recognising the female partner of a birth mother and the male partner of a birth mother where conception takes place with donated sperm as in an identical position, and therefore subject to the same process of legal recognition. To do otherwise is to discriminate against the person disadvantaged by the difference in legal recognition.

### **Birth Registration**

*The Commission stated that: "It will be necessary for the adoptive parent to provide some sort of evidence to the registry [of Births, Deaths and Marriages] to distinguish her position from someone who has not gone through the clinic system and is therefore not able to benefit from the deemed adoption provisions. A letter from the clinic confirming that the non-birth mother complied with the requirements of the Infertility Treatment Act should be sufficient evidence to enable the registry to register her as a parent of the child" (VLRC 2005, p. 21).*

In recommending that a letter from the clinic should be sufficient to satisfy the Registry that the same-sex partner of a birth mother can be registered as a parent, the Commission is once again recommending a practice that discriminates between heterosexual and homosexual couples. A man can nominate himself as the father of a child simply by agreeing to the inclusion of his name on the birth certificate, whether or not that child was conceived through the licensed clinic system, through ART outside the clinic system, through sexual intercourse with his partner, or through an extra-marital relationship which he may or may not know about. If the child was conceived through the licensed clinic system, the man does not need to provide a letter from the clinic to the Registry saying this is the case. Why should

a female partner of a birth mother be required to do this? The Commission has provided no justification. Nor does this *Position Paper* demonstrate that it has sought alternatives which eliminate this discrimination whilst ensuring that the Registry can meet *but not exceed* its statutory obligations.

The Commission's recommendation potentially enshrines in law a discriminatory practice already conducted by the Registry: that is, the recording of information about conceptions that take place through assisted reproduction, *but only where that information pertains to children of same-sex couples*. This practice, again, is open to legal challenge by same-sex couples: an expensive, stressful and discriminatory outcome. If a couple refuses to provide this letter on the grounds that it is a discriminatory requirement, their child's birth may go unregistered until the matter is resolved.<sup>7</sup> This is an alarmingly big stick to enable the Registry to wield.

Discrimination is merely one concern here. The other concern, which seems absent from the Commission's deliberations, is that of the privacy of the individual whose birth is to be registered. A letter from the clinic remains on file with the Registry, and only letters pertaining to births to same-sex couples are required. The privacy of heterosexual couples and their offspring is preserved; that of children of same-sex couples is not.

The Registry is currently recording, and under the Commission's recommendations will continue to record by way of requiring a letter, the ART births of children to same-sex couples. Information contained in the Registry can be made available to third parties.<sup>8</sup> Where this exists as a statutory capacity, assurances from Registry staff that such information will not be disclosed inappropriately are not sufficient protection. Heterosexual couples run no such risk of having information regarding the mode of conception of their children disclosed. This is one reason why I believe transferring the functions of the Infertility Treatment Authority (ITA) to the Registry with respect to the donor registers is a mistake:<sup>9</sup> there is a far greater

degree of privacy and confidentiality accorded to all parties if the ITA retains this function, and until there is no stigma attached to ART in our society, this privacy and confidentiality is necessary. In the protocols the Registry has developed to deal with same-sex couples and their donor-conceived offspring, the Registry shows little understanding of these issues. This is not surprising: they are complex and relatively new issues, which even people working daily in the field of reproductive technology struggle to understand and analyse.

It is important to remember that the Registry does not record information about biological parentage: it may or may not be recording that information when it registers people as parents. A woman registered as a mother may or may not be the biological mother of that child; a man registered as a father may or may not be a biological father<sup>10</sup>: the Registry has no way of distinguishing. Were it intent on recording information about biological parentage, the Registry could only do so by requesting that every person who nominates themselves on a birth certificate as a parent also provide DNA evidence of that fact. Heterosexual people require no other proof of parenthood except their willingness to put their names there, regardless of how the child was conceived and who the biological parents are. Why can the same system not pertain for same-sex couples? The Commission has not provided sufficient justification for a differential practice.

Again, the Commission has made a false analogy in its recommendation that women who conceive children outside the clinic system be required to give the name of the donor to the donor registries. The Commission argues that this treats children born as the result of clinic treatment procedures in the same way as children born of privately arranged self-insemination. It does not: it treats all children born to same-sex couples in the same way, that is, differently to those born to heterosexual couples.

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Authority should be transferred to the Registry of Births, Deaths and Marriages (VLRC, 2005, p. 43)

<sup>10</sup> Many studies prove that there is no direct correlation between this process and the registration of the biological father on the birth certificate: the most recent study indicates that up to 4% of men who believe themselves to be biological fathers of their children are not (Bellis et al, 2005).

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<sup>7</sup> Registration of a child's birth is a right under the UN *Convention on the Rights of the Child*.

<sup>8</sup> *Births, Deaths and Marriages Registration Act 1996* (Vic), sections 44–50

<sup>9</sup> Interim Recommendation 22 states that the donor registers currently held by the Infertility Treatment

The Commission argues that women are under no compulsion to register the name of the donor with the ITA, and that 'this may leave some donor-conceived children without the same right or capacity that others have to access information about their donors.' This assertion is not supported by the facts. Children of same-sex parents are told about their donor-conceived origin because there is no person of the opposite sex to stand in the place of the parent of that sex. It is unlikely that, in that situation, the identity of that person would be withheld if it were known. If the Commission believes this to be likely, what is the evidence upon which this assumption is based? If the Commission is recommending that women be compelled to provide such information to a government body, information that can be accessed by others, the onus is on the Commission to provide compelling reasons for this to be done.

The reason it offers is that this recommendation is consistent with the principle that children have a right to information about their genetic parents. Yes, but this is not an absolute right. Parents of ART children are not compelled to disclose their child's origins to the child, and the Commission is not recommending that they should be; women who conceive children with men other than their husbands or partners are not compelled to tell their children about their genetic origins. The Commission has drawn the line in the wrong place: the decisions with respect to how, when and why information is disclosed to a child should be the parents', whether they are homosexual or heterosexual. That is, the donor registry should be the only place where the existence of a donor for a clinic-conceived child is recorded. All people who conceive outside the clinic system [by whatever means] should be treated in the same way: that is, either all people should be compelled to provide the correct information about a child's biological parenthood or genetic origins, or all people should not. The Commission should not recommend that one category of person in the population, that is, women in same-sex relationships, be forced to divulge that information unless it is requiring that information of all other categories of person.

### *The Birth Certificate*

The Commission is recommending that legal parents of children be included on the birth certificate, and that these parents can include a same-sex couple.

The Commission seems to have given no consideration to the consequences of including mandatory information regarding same-sex parents on a child's birth certificate. A birth certificate is a document produced for many everyday purposes, from applying for a place at a university to applying for a driver's license etc etc. Consideration should be given to the minimum information that should be included on the birth certificate for these everyday purposes. For example, inclusion of a person's name, date and place of birth may be sufficient for many purposes. More comprehensive information could be included on a birth certificate required for purposes involving security and other issues.

I make a philosophical point here in order to explain why consideration should be given to amending the birth certificate to meet the needs *first and foremost* of children born to same-sex couples. In some situations, in order for discrimination not to occur, there must be a paradigm shift. In this case, the paradigm that must shift is that of the heterosexual model in which a mother and a father are usually recorded on the certificate. This paradigm does not fit the complex situation in which same-sex couples and their children find themselves. Practices should be adjusted to protect people from discrimination, and in this case it involves developing a birth certificate *for the whole Victorian community that is most appropriate for children of same-sex couples*, to enable these children to retain a degree of privacy about their parentage and their conception unless it is important that these facts are revealed. This information is more sensitive for children of same-sex couples, and they should be enabled to pass through the world *with the same degree of ease* accorded to children of heterosexual couples. This can only be achieved by protecting them from discrimination where possible. A certificate with this minimal information could be issued to all children born in Victoria, along with a more comprehensive certificate. All people could then use either certificate to suit the requirements of the situation they find themselves in.

I hope I have given a clear account of my profound reservations about the Commission's recommendations on legal recognition of same-sex parentage. I hope the Commission will revise its recommendations and advise the government to eliminate all forms of discrimination against same-sex couples and their children.

*Since the publication of Position Paper Two and as at February 2007, the Commission has published no further policy documents on these issues. I understand that the final report on this issue is to be published in mid-2007.*

### Author Note

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## **SOLEMNISING SAME-SEX UNIONS: WHY THE AUSTRALIAN CAPITAL TERRITORY GOVERNMENT WANTS TO, AND THE AUSTRALIAN FEDERAL GOVERNMENT POINTEDLY DOESN'T**

RODNEY CROOME

On February 6<sup>th</sup> 2007, Federal Attorney-General, Philip Ruddock, declared his opposition to the ACT's proposed Civil Partnerships Bill. If that Bill became law, Ruddock threatened, it would be quashed.

The announcement came only a few months after the Federal Government overrode the ACT's first attempt to formally recognise same-sex unions. In June 2006 the Prime Minister advised the Governor-General (who is the de facto head of state for the ACT) not to sign into law a Civil Union Bill passed by the Territory's Legislative Assembly. The Howard Government objected to the original Bill, it claimed, because that Bill, in its purported similarity and links to marriage, might trespass on federal laws defining the institution as exclusively heterosexual.

The Civil Partnerships Bill was the Stanhope Government's response. Clauses defining civil unions as a type of marriage under ACT law were removed. A registry of celebrants separate from the Commonwealth's was to be established. But to no avail. According to Mr Ruddock, the Bill was "still too similar to marriage" and "likely to undermine the institution of marriage" (AAP, 2007).

Many Australians are puzzled by the stand-off. Why, they ask, is the Federal Government so antagonistic to its ACT counterpart recognising the spousal rights of same-sex partners? For that matter, why is the ACT Government so determined to grant these rights?

As a long-time advocate of gay and lesbian human rights, the second question is easy for me to answer. Gay and lesbian Canberrans have made it clear that de facto legal status is not always enough; that they should have the opportunity to have their relationships formally, legally recognized<sup>1</sup>. They want the practical benefits that come with such recognition.

One such benefit is immediate access to spousal rights in areas like employment entitlements, accident compensation and parenting. Another is quick and easy proof of relationship status if that status is challenged in, say, a medical emergency.

These are the same benefits that currently flow to same and mixed sex couples who register their relationships in Tasmania. The Tasmanian relationship registry (*Relationships Act 2003*) was Australia's first formal scheme for formally recognising unmarried relationships. It has been followed by municipal registries in Sydney and Melbourne.

But Canberra's gay men and lesbian women want more than the chance to certify their relationships. They also want the right to solemnise them.

An official ceremony is much more than an excuse for confetti, bouquet and party throwing. It's a way for family, friends and broader society to acknowledge and affirm that the love and commitment between two people has a social as well as personal value. This is particularly important for gay and lesbian couples. For centuries same-sex relationships have been persecuted, criminalized and stigmatised. Official recognition is the fastest acting antidote to this poison.

Many mental health professionals acknowledge the importance of official recognition for same-sex relationships. Some psychological studies point to the many psycho-social stresses caused by discrimination; others note the health benefits of social affirmation and legal equality for all couples; still others have found that the quality of care, commitment and child-rearing in same-sex relationships is at least as positive as that of their heterosexual equivalents (e.g., see Millbank, 2002; McNair, 2004).

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<sup>1</sup> The ACT's peak lesbian, gay, bisexual and transgender (LGBT) human rights organisation, Good Process, has conducted several community consultations on the options of relationships recognition, all of which have returned support for a

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scheme similar to that put forward by the Territory Government. The ACT Government's own community consultation on this issue also found support in the LGBT community for the laws it subsequently proposed.



Based on evidence such as this, the American Psychological Association (amongst others) has released a statement endorsing equal marriage (APA, 2004). As important as these studies are, I don't need to read them to know what they say is true.

In February I attended the civil union of my former partner, Nick Toonen, in Wellington (like the UK, Canada, South Africa, most western nations, and some South American and Eastern European nations, New Zealand allows same-sex couples to solemnise their partnerships). Because of my close connection to Nick, and the fact this was my first 'gay wedding', I expected to be moved by personal aspects of the ceremony - the presence of family and friends, the partners' vows, the exchange of rings, the speeches. But to my surprise, what had the biggest impact both on me on the other gay guests I spoke to later, was the celebrant's legal declaration: "under the laws of New Zealand I am authorised to join you in civil union".

What for many marrying heterosexual partners is the least important point in a wedding – "the official gumph" as one straight friend once called it - was for us the most compelling. It spoke not only to the love we were there to witness, but the hope of a better world for us all.

Thus I return to my first question: if the right to solemnise one's union is so valuable for individuals and their communities, what's the Federal Government's problem with the ACT Government's law reform initiatives? To adequately answer this question it is important to appreciate the current government's overall policy response to the legal entitlements of same-sex couples.

From its election in 1996 Australia's socially conservative national Coalition Government has resisted extending spousal rights in national law to same-sex couples. This included extending entitlements in everyday financial matters and workplace conditions to same-sex de facto couples, a reform which, in the same period, occurred in most Australian states and in most other western countries<sup>2</sup>.

The Federal Government's consistent rationale for not matching the pace of reform locally and internationally was that any recognition of same-

sex de facto couples would equate these relationships with heterosexual marriage, and in the often-repeated words of Government representatives "demean", "degrade" or "undermine" that institution.

While these terms are frequently deployed, they are very infrequently explained. However, the clear implication is that same-sex relationships conform less to the standards formally set by marriage than their heterosexual equivalents. In other words, they are less loving, less committed, and of less social value.

It was on this basis of their concern about "demeaning", "degrading" and "undermining" marriage that the Federal Government, with the support of the Opposition Labor Party, amended the federal Marriage Act in 2004 to entrench the definition of marriage as exclusively between one man and one woman, and to prohibit recognition by the judiciary of same-sex marriages solemnised overseas<sup>3</sup>.

On the foundation of these amendments the Government has built a range of policies affecting gay and straight couples alike. It refuses to issue documents Australians require to marry their same-sex partners overseas (Szego, 2006a). It refuses to allow marriage celebrants to allow heterosexual couples wedding in Australia to legally refer to each other as anything but "husband" and "wife" (Szego, 2006b). It has proposed a ban on all adoption by same-sex couples from overseas (Nguyen, 2007).

But ironically, more restrictive policy-making in the areas of marriage and parenting has opened up the possibility of recognising same-sex couples in other areas and in other ways.

Accompanying the 2004 marriage amendments was reform of legislation governing private sector superannuation schemes recognising a wide range of significant personal "interdependent" relationships. These relationships need not be sexual. They could be between older companions, or carers and the people they care for.

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<sup>2</sup> For a summary and review of those areas of federal law in which same-sex couples continue to face discrimination refer to Millbank (2007).

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<sup>3</sup> The amendments were ostensibly in response to two Australian same-sex couples seeking to have their Canadian same-sex marriages recognised by the Australian Family Court under the country's formally-liberal overseas marriage recognition laws.

At the end of 2005, the Federal Government granted entitlements to service personnel in same-sex unions on the basis of interdependency and is currently considering a similar reform, proposed by Queensland Liberal MP, Warren Entsch, ranging across areas of law like medical benefits, taxation, aged care and social security.

Legally defining same-sex unions as companionate rather than conjugal clearly makes enfranchising them more palatable to Australia's national law-makers. Against this background it is easy to understand the Federal Government's opposition to the ACT Government's proposals. The latter gives same-sex unions equivalence in Territory law to heterosexual married and de facto couples. It does not enfranchise non-conjugal couples.

Not surprisingly, the issue that has come to embody the Federal Government's antagonism to the rather abstract issue of same-sex conjugality – just as it has come to symbolise the aspiration of same-sex couples for equality – is the solemnisation of same-sex unions through official ceremonies.

Philip Ruddock has admitted one of his core concerns about the ACT Government's proposals is that "a civil union should not involve a formal ceremony" (AAP, 2007a).

Obviously this isn't the only Federal Government objection to the ACT law. Mr Ruddock has also expressed concern about the possibility that people down to the age of 16 might enter into an ACT civil union (in the same way as they can currently enter into a marry under laws administered by Mr Ruddock), and that it might lead to bigamy (AAP, 2007b).

However, the ACT Government has made it clear it is open to negotiation on points such as the civil union age limit. Meanwhile, the Federal Government has stated it would not intervene if the ACT were to adopt a Tasmanian-style relationship registry. Such a registry provides same-sex couples with access to virtually the same rights as the ACT quashed law, including in the area of parenting. In some respects it even goes further than the ACT law by subsuming marriage under the new legal category of "significant personal relationship" and erasing from state law terms actively promoted by the Federal Government like "husband" and "wife" (Szego, 2006b). But, as mentioned above, the Tasmanian law has no

provision for official ceremonies. If the Federal Government finds the Tasmanian law preferable to its ACT counterpart, despite the former's many socially progressive features, official ceremonies are clearly the most potent point of contention between the two governments at either end of Canberra's Commonwealth Bridge.

Clearly, official ceremonies remain the most politically potent point of contention between the two governments at either end of Canberra's Commonwealth Bridge.

My experience as a lobbyist on gay human rights has convinced me that the Federal Government is as keenly aware as its ACT counterpart is of the power of such official ceremonies to destigmatise same-sex unions. The difference between the two administrations is that the former has no desire to further that destigmatisation. Consistent with its social conservatism, the Federal Government is happy for these same-sex unions to be conducted in private, but refuses to allow them an official public aspect.

Of course, keeping gay and lesbian couples in the closet isn't the only possible conservative policy response. Arguably, it makes more sense for conservatives to support official recognition as a way of fostering conservative values like fidelity, monogamy and personal responsibility (Rauch, 2003; Sullivan, 1996).

Studies have shown that legal and social equality for same-sex couples also pays direct financial dividends for government and society. Legal equality keeps same-sex partners off government benefits by helping them provide for each other. Meanwhile, the financial insecurity caused by legal discrimination against same-sex couples hinders their capacity to earn, invest and generally create wealth (Croome, 2006).

But as appealing as these arguments should be for practical and moderate conservatives, the Government also has its constituents to think about. Evangelical and socially conservative voters in key marginal regional and outer urban seats would have no qualms about blaming John Howard and voting for Family First, if images of same-sex nuptials on the shores of Lake Burley Griffin were flashed across their television screens.

The same over-emphasis on the views of a small but highly disciplined group of voters has also so

far prevented the Federal Labor Opposition proposing any formal recognition of same-sex relationships, although it is committed to giving same-sex couples the same entitlements as heterosexual de facto couples.

So what hope is there for formal, legal recognition of same-sex couples in Australia?

Like many important legal and social reform movements, the formal, official and ceremonial recognition of same-sex couples will gather momentum locally before it is accepted nationally. The Tasmanian partnership registry has dissolved fears about the legal recognition of same-sex couples. Soon another state government, or perhaps a local city authority, will do the same for the solemnisation of such relationships.

As the history of this issue in other countries has repeatedly shown, once these important steps are taken, it is only a matter of time before full legal equality is achieved. The struggle of the ACT's gays and lesbians for official affirmation of their relationships may be lost, for now. But they can be sure they have sparked a reform movement that prejudice and expediency have no hope of stopping.

### Author Note

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## HETERONORMATIVITY: PSYCHOLOGY'S NEW (OLD) STR8JACKET

SUE KENTLYN

We've all encountered it a million times. The hotel receptionist or sales assistant who immediately adopts the 'opposite-sex' pronoun to talk about your partner. The application forms that ask for gender and offer only two boxes. The recently married couple who are asked when (not if) they're going to 'start a family'. From the moment my daughter found out she was pregnant, it kicked in with a vengeance. Baby clothes were purchased, baby accoutrements accumulated, and the nursery decorated in appropriate styles and colours. (*She* favoured a jungle motif, but *he* said that would be 'too masculine' if it was a girl. They settled on frogs as a central motif, which at least offers *some* hope of future gonochorism. [Policansky, 1982]). A gay couple who participated in my research on domestic labour in same sex households bought a car together; the company's paperwork showed them as 'Mr and Mrs Cameron or David Smith Jones'<sup>1</sup>. After her gender reassignment surgery in Thailand and subsequent change to her gender on her birth certificate, a friend's long-standing marriage was deemed 'invalid' by the Federal government; two women cannot be married to each other in Australia. Another friend's mother vomited in front of him when he first told her about his male partner, so revolted was she by the idea of man-on-man sex.

Heteronormativity. An ugly word for an ugly phenomenon. Coined by Michael Warner in 1991, it describes the pervasive but often invisible model of allegedly stable relations between chromosomal sex, performed gender, and sexual desire, which claims heterosexuality as its origin, when it is more properly its effect (Jagose, 1996, p. 3). In a heteronormative society, one of only two genders is assigned to an individual at birth depending on external genitalia. Based on that assignment, a certain range of behaviours and roles are deemed appropriate for that individual, complemented by the choice of sexual partners of the 'other' gender.

<sup>1</sup> These are pseudonyms.

Individuals who do not conform to this model are stigmatised, and come under varying degrees of pressure to correct their deviance from the norm. GLBTIQ<sup>2</sup> people are often

<sup>2</sup> A word on terminology. (Warning: this will satisfy no-one, least of all myself).

**GLBTIQ:** Gay, Lesbian, Bisexual, Trans, Intersex, Qwir.

**Gay** – a person who identifies as male, and as primarily same-sex attracted.

**Lesbian** – a person who identifies as female, and as primarily same-sex attracted.

**Bisexual** – a person who identifies as being both-sex attracted.

**Trans** – a kind of shorthand term I use to cover persons who identify as transgender, transsexual, transvestite, M2F, F2M, gender variant, genderqueer, gender outlaw, gender-fucked, cross-dresser, gender-dysphoric, butch woman, effeminate man, androgyne, drag queen, people who would prefer to answer to new pronouns or to none at all, and members of non-Western European indigenous cultures who claim such identities as the Native American *berdache* or two-spirit status, Brazilian *travesti*, Indian *hijras*, Polynesian *mahu*, Omani *xanith*, African "female husbands," and Balkan "sworn virgins." This list is neither exhaustive nor fully justifiable. It is important to remember that these terms are highly contested, especially among those who so identify.

**Intersex** – persons who identify as having sex chromosome configuration, external genitalia or internal reproductive systems that fall outside the norms for 'male' or 'female' bodies. May also be known as hermaphrodites.

**Qwir (a variant of 'queer'**, which I have appropriated for my own purposes from Minning, 2004) – a term *I use* in the context of academic discourse to connote any person who identifies as differing from heteronormative understandings of sexuality and/or gender. I use this variant spelling, much as some feminists have used the variant spelling of *wymmyn*, to signify a rupture with the word's original meaning whilst still finding it useful as a descriptor of a segment of the population.

Again, it is important to remember that *all* of these terms are highly contested, and in all but the last, I try to be guided by how individuals choose to identify. For example, I would only refer to both-sex attracted individuals as 'bisexual' if they themselves actually embrace this identity category.

estranged from their family of origin and social networks. In some countries they may be executed, suffer physical violence, institutionalisation, and find their economic opportunities severely curtailed. In all countries, their civil and political rights are circumscribed to some degree, and they are liable to encounter prejudice and discrimination. Nowhere is this more in evidence than in the realm of parenting, families and relationships. The nuclear family is the heteronormative institution *par excellence*, predicated as it is on the sexual relations between one man and one woman producing their genetic offspring - what Warner calls *reprosexuality* - the interweaving of heterosexuality, biological reproduction, cultural reproduction, and personal identity (1991, p. 9). While the private sphere of the home has often been considered the only safe and appropriate place for Qwir<sup>2</sup> people to express their identity, it is also constructed as the quintessential site of heteronormative ideology and practice (Radford, 2001; Mallett, 2004).

Psychology's history in regard to Qwir individuals has not been a happy one. Most psychosexual theories have been based on the belief that male/female pair-bonding is the developmental norm for adult sexual behaviour, giving rise to various 'treatments' to 'cure' same sex attracted and gender variant individuals. These 'reparative therapies' have included psychoanalytic and behavioural modalities, such as aversion therapy, and have worked in conjunction with medical interventions such as medication, lobotomy, clitoridectomy and castration, sterilisation, and electroshock treatment (Lev 2006). But surely, since 1973 when homosexuality was officially removed from the American Psychiatric Association's Diagnostic

and Statistical Manual (DSM), psychology's understanding and treatment of sexuality and gender issues has become more informed and affirming?

Perlesz and McNair (2004) suggest that, at least in the area of parenting and family in Australia and New Zealand, this is not the case. They reveal the dearth of articles in marital and family therapy journals with any explicit lesbian and gay content, most particularly the *Australian and New Zealand Journal of Family Therapy* itself, and they demonstrate the lack of student training to deal with Qwir families and issues. They find these omissions all the more puzzling because lesbian and gay practitioners are well represented among Australian family therapists, and because of the significant rise in the number of families with Qwir members, as well as in the number of lesbian-parented families. They further document studies revealing homophobic and heterosexist attitudes among psychologists and social workers, as well as biased, inadequate or inappropriate treatment of Qwir clients. They suggest that, in this, family therapists are simply reflecting the heteronormative, heterosexist and homophobic attitudes endemic to Australian society (2004, p. 130).

More than merely addressing the deficits mentioned above, their research represents an attempt to transform the lens through which lesbian-parented families, in particular, are viewed. Rather than using heterosexual family models as a 'benchmark' for 'normality', they attempt to present the lesbian-parented family as a unique, highly diverse, postmodern family structure, with much to teach researchers about the meaning of family and the nature of social change. They foreground the accounts of family members themselves, of how lesbian parents construct their parenting experience, and show how these accounts point to some of the many issues that might arise in everyday therapy practice. They urge therapists to adopt a more grounded and compassionate Qwir-friendly approach in their work, through an increasing awareness of the social and legal issues such families face, and through a deeper understanding of the interface between the private lives of Qwir families and a heteronormative public arena.

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I have adopted the term *qwir* as defined above solely for ease of communication, fully cognisant of the fact that the term is repugnant to many I would describe in this way. For this I apologise, and welcome any suggestions of a better way to negotiate the highly contested terrain of terminology.

I have arranged the terms in this order because that is the order in which I have most frequently encountered them, and not to rank them in importance, numbers, or prestige.

What they fail to do, in my opinion, is to urge therapists to consider the impact of heteronormativity on clients who do *not* identify as Qwir. Michael Warner talks about a 'queer' politics that is no longer content to carve out a buffer zone for a minority constituency, but seeks to challenge the heteronormativity of modern societies (1991, p. 3). This is the challenge that confronts Psychology. Rather than simply seeking to understand and work with the dynamics of Qwir behaviours and institutions in a subcultural context, contemporary Psychology should be calling into question the sex and gender scripts and stereotypes that constrain so many people who do not identify as Qwir, impoverishing their lives and relationships: the gentle boy who violates heteronormative understandings of masculinity, incurring his father's wrath and the harassment of his peers; the young man, like my son at the time of my divorce, who has to weather personal crisis with no meaningful support from his mates because they're all so unequipped and unwilling to talk about their feelings and to give and receive emotional support; the married man desperately trying to reconcile his overwhelming desire for sex with men with his genuine love and commitment to his wife and children; the woman who finds herself in a heterosexual partnership after years as a lesbian, vilified and excluded by her former lesbian community, her identity universally 'read' as straight by virtue of her relationship with a man; and the couple who choose not to have children and are forced to give an account of this decision to a myriad of hostile critics accusing them of 'selfishness'. The list could go on and on.

Psychology should also be interrogating the *ideological* foundations of human institutions themselves, such as 'marriage', 'family', 'community' and even 'identity', to render those institutions more legible and liveable for 21<sup>st</sup> century human beings. This is not, as the politicians would have it, 'social engineering'; it is simply catching up with people's lived experience rather than trying to shoehorn them into social discourses and institutions which no longer fit. Sedgwick (1990, p. 1) asserts that "an understanding of virtually any aspect of Western culture must be inadequate and in fact *damaged* in its central substance to

the degree that it does not incorporate a critical analysis of modern homo/heterosexual definition" (emphasis added). Further, I would argue that sexuality and gender are so inextricably entwined that *together* they must be seen as a primary category for the critical analysis of practices and institutions, even those that do not initially seem to involve issues of gender and sexuality.

These are not 'Gay and Lesbian' concerns, this is not a 'Special Issue', this is a Human Issue, that applies to us all. It embraces notions of gender, family, individual freedom, the state, public speech, consumption and desire, nature and culture, production and reproduction, politics, fantasy, class and ethnicity, ethics and morality, trust, integrity, integration and individuation, censorship, intimacy, self/other relations, terror and violence, health, the body. There is no domain of human experience unaffected by heteronormativity, no aspect of human life that wouldn't be enriched by liberation from its strictures. It's time for Psychology to cast off the str8jacket of heteronormativity and challenge its constraints on the human condition.

### Author Note

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## NONBIOLOGICAL LESBIAN MOMS – HOW MUCH DESCRIPTION CAN YOU GET INTO THREE WORDS! OR, WHEN IS A MUM A MUM?

MARY DANCKERT

*Harlyn Aizley Ed. (2006). Confessions of the other mother: Nonbiological lesbian moms tell all! Boston: Beacon Press.*

This book provides a number of women with the opportunity to write about their experiences of getting ready for the birth of a baby and the challenges they face in the first few months post the birth. The authors are all articulate and reflect in intelligent and thoughtful ways upon their relationships and their social location.

They raise themes that are familiar to most parents anticipating the birth of their child, and those particular to families where the parents are lesbian women. The book successfully fulfills the need identified by the editor for a resource that provides "tales from the front lines of nonbiological motherhood, optimistic, funny stories of otherwise happy and contented lesbian moms..." (p. x)

My favorite chapter was by Mary Cardaras; *Family of the Heart*. All of the women raise and address the concerns that are inherent in the title of the book, but Mary Cardaras tackles them head on. She makes it clear why the title has within it a paradigm that can position families with two mothers as less. That is, the conjunction of the words 'nonbiological' and 'motherhood', combined with a suggestion of anxiety, could be taken by some to infer that they are somehow contradictory terms. Mary Cardaras writes beautifully of being adopted and knowing at a deep level that all families are *made*, rather than simply existing. She describes her refusal to be bowed by the dominant presumption that "blood relations are somehow superior" (p. 152).

As the women in the book attest, biology *is* an issue. It *does* matter who births the child and who breast feeds the child. Yet to position biology as so central, right at the beginning of the story of 'the making of our families', as the

title of the book could be seen to do, starts us off on the back foot. Or, as another writer says, by some people she is "defined by what I am not: a nonbiological parent, the non birthmother" (Klempnauer Miller, p. 10). Next to the word mother could as easily be the word nurturer, or breadwinner, or athletic, as the word nonbiological. It may seem facetious to suggest that who births the child is as significant as who is more adept at nurturing, or earning an income, or playing sport. However, the title could be read as affirming the fiction that 'motherhood' is 'natural' and that this naturalness is signified by the biology of the body that carries the child. All women are constrained by automatic associations between the often fuzzy ideas of biology, instinct, and being 'a real mother'.

This is not to disregard the real and urgent concerns that the women describe. Each chapter details sensitively the disempowerment felt by parents when there is no legal recognition of their reality. A number of women describe the crushing experience of invisibility and marginalisation when language does not seem to be available to describe what we are living through and when dominant culture thinks that we are invalid. "The presumption that I am a 'lesser mom' hurts..." (Derosier, p. 73). Most of the women describe instances of the pain of feeling unseen, or unrecognised as a parent by family, friends and community: "I thought the other one was her mother." (Bliss, p. 85).

The book reminded me again of the importance of language in placing us as individuals in our social context, of making us 'real', and of providing the tools with which we relate meaning and make meaning. One woman described part of her experience of her child's birth: "It left me not a father, not a birthmother, not even really an adoptive mother. In most parts of Canada (and the world), that option doesn't exist. I am totally transformed, with no name for myself that



doesn't begin with a lack. Consider *nonbiological mother, non-birthmom, and the other mother*" (p. Spector, 28). Yet, as this woman says, even as she struggles with the gaps in our language, "the baby still needs to be fed and so I am a mother. A mother for sure..." (p. 29). Or, another writer who describes herself at times as a Lesbian Dad says, "...I felt a responsibility to begin carving out a place for myself, linguistically, socially, emotionally" (Pagenhart, p. 38). These women describe how, with courage, they proceed to create their families, day to day, and night to night, through nappies, sleeplessness, visits to the doctors and all the other caring and work that goes into the job.

Other concerns described in the book include the responses of strangers and family, such as the endless curiosity and questions like; "who/where is the father?", and the concern of having a known donor that 'the rest of the world' would be anxious to place, and have a ready made fit for, as Dad. Other mothers describe similarities with heterosexual Dads, such as feeling like a third wheel when watching a partner breastfeed their child.

These women wittily and generously share stories that describe their journey, that of being a co-parent with a woman who birthed their child. Recurring is the theme of overwhelming love they experience at seeing their child for the first time and their realisation that the relationship they have with the child/ren defines them, and that the definitions are fluid and dynamic, although linked to well-worn concepts and language. One described her experience as "at the same time traditionally fatherly and anciently female" (Pagenhart, p. 49).

A theme through all the chapters is the critical importance of public validation, including legal recognition and ceremonies, for the health and well-being of our families. The book contains much evidence of the need to remove discrimination from family-related and other laws. Although (and partly because) the book charts the difficulties many families experience, such as lack of social validity, and finding a pathway when there may be few role models available and many obstacles to

overcome, it is in itself a celebration of women making families.

### Author Note

Mary Danckert has been active in social change movements for over twenty years, primarily in the areas of gender, class and race. She has a Masters degree in Women's Studies and works in the community sector.

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## BOOK REVIEW

KATHERINE CHENG

*Pallotta-Charolli, M. (2005). When our children come out. Sydney: Finch Publishing, ISBN 187645144-0, pp. 244.*

This book commences with a foreword written by the Honourable Justice Michael Kirby, who speaks of the secrecy that ruled his childhood and youth. He writes of acceptance from his family but also that he never broached the issue of sexuality with his mother until shortly before her death. His mother's reply was: 'Michael, you've been bringing Johan to dinner for 30 years. Get real'. And in this book Maria Pallotta-Charolli attempts to do just that: get real.

The book is divided into three sections, creating a clear and easy to follow structure. In the first, parents, children, and teachers tell us some of their experiences and stories (bad and good). From these the author makes recommendations about how to deal with any difficult questions or objections. For example, there is a section in Part One that deals with 'Ten Common Questions Parents Ask', in which she includes answers to questions that some people ask, such as:

Where did we go wrong?  
Could this be just a phase? Are they sure?  
Should we take our child to a psychiatrist?  
Why does our child have to flaunt their difference with their behaviour/s?

Further in the chapter is a section called 'When you get asked dumb questions about your children . . . ask smart questions right back!' In this section, Maria deals with responses to questions such as:

Why do homosexuals recruit people into their lifestyle?  
Why are homosexuals paedophiles?

Part Two, 'When our children come out in schools', starts with a short essay by Abe Whyte (eight years old) in which the writer says: "If I were a teacher, I would show kids

that lesbians and gays aren't different, they are loving, funny, friendly and natural just like most other people" (p. 55). It is a powerful piece of writing and sceptics may find it difficult to believe that an eight year old could come up with: "I would show them that even though being lesbian or gay may seem weird to them, it doesn't mean they're mentally unstable and sexuality is only one part of a person" (p. 56). It is nevertheless a thought-provoking piece which can be used by teachers and others to introduce topics in school such as bullying, intolerance, and embracing diversity.

This section also contains a teacher's checklist, and a list of assumptions and ways of countering them. There is also an excerpt of an interview with a Catholic parent, dealing with the so-called 'ethnic excuse' and a diary-of-sorts from a nineteen-year-old Project Worker who introduced a programme called Pride & Prejudice into schools.

One of the most powerful aspects of the book for me was the suggestion from a twenty-four-year-old to other GLBT youth that they write to their schools about their experiences, good, bad or a bit of both. There is a suggested letter which broaches 'things that you would have liked your school to do'. I also enjoyed the wonderfully humorous illustrations, among them one in which a woman says, 'Oh I don't mind learning . . . just don't tell me I'm being educated'. It is – once again – simply written but powerful.

The final part, 'When our children come out in communities', deals with a range of issues that come up, including working with GLBT people and their ethnic communities and coming out in religious communities. Maria has worked in the school system and this comes through in her practical advice.

While many schools these days have anti-bullying and anti-harassment policies, there is still a sense that discussing GLBT issues is 'too

controversial' or 'too hard'. There is also a belief that such discussions will alienate parents, even though it is often known and acknowledged that there are gay and lesbian parents in schools. This book will enable adults in families, schools and in the general community to support GLBT youth. This book is full of practical advice, real stories and voices, humour and resilience. It deserves to be publicised and to be in public libraries, school libraries and teacher resource files of all schools, particularly the Church-based schools.

### **Author Note**

Katherine has worked as a Counsellor in an EAP (Employee Assistance Programme), as an Adviser for International Students at TAFE and university, and as a psychologist in the State Education system. She is currently a psychologist/counsellor in an Independent School. Contact email:  
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## BOOK REVIEW

ANTHONY VENN-BROWN

*Drescher, J. & Zucker, K.J. (2006). Ex-gay research: Analysing the Spitzer study and its relation to science, religion, politics and culture. New York: Harrington Park Press, ISBN: 1560235578, pp. 352.*

I think the consistent underlining and notes throughout my copy of *Ex-gay research: Analysing the Spitzer study* is a good indication of how helpful and relevant I found this book. It might help if I briefly give you my background. This book was particularly relevant to me, as through personal experience I have a deeper insight into the content than most people. I admitted myself into Australia's first ex-gay live-in program for 6 months in 1972 in order to free myself of unwanted homosexuality and 'become straight'. Subsequently I married in 1974 believing that God had healed me and that I had the power to overcome any future same-sex temptations. Being married for 16 years and fathering two children, I probably would have volunteered for a study such as Spitzer's. As a high profile preacher though, there was a constant battle going on behind the scenes in order to maintain the façade. That ended quite tragically and publicly in 1991. I now live as a totally out, fulfilled gay man. In addition, for seven years I have been moderating a Yahoo Group ([www.groups.yahoo.com/group/Exex-gay](http://www.groups.yahoo.com/group/Exex-gay)) for survivors of ex-gay programs as well as working with people who are same-sex-oriented from Christian backgrounds.

This book is a cleverly constructed collection of essays from over 30 academics, researchers, psychologists and social commentators. All of the essays focus in varying ways on Spitzer's 2003 study that examined whether 'conversion' to heterosexuality was possible for lesbians and gay men. The spectrum includes a few who feel Spitzer's study is valid, in addition to those who say it was highly irresponsible to even publish it. There is also a chapter of Spitzer's in response to the criticisms and finally an interview with him. As one reads, one becomes quickly aware of the limitations in his research methodology. Those gaping holes are restated ad infinitum throughout the book. Spitzer surveyed 200 people who once believed they were homosexual, but after going through some form

of 'reparative therapy' (a misnomer in itself), now believe they are heterosexual. Spitzer interviewed each one personally over the telephone for 45 minutes in which they were asked 114 questions.

The common criticisms of his methodology are.

1. *Self-reporting.* The anecdotal reporting of the individuals leaves a wide space for self-deception, denial and changing of memories over time. I am very familiar with this having spent many years pretending to be heterosexual and excusing my occasional 'slip-ups' as 'just temptation'.
2. *Not using penile or vaginal photoplethysmography to determine sexual orientation.* Most of the writers agree this is the only way sexual arousal can be gauged objectively.
3. *The sample was very limited.* Mostly white middle class, middle-aged men and women: people who grew up in a society with anti-sodomy laws, an intense pressure to conform, and considerable stigma attached to homosexuality.
4. *The sample was extremely religious.* 93% said that religion was extremely or very important in their lives. A significant number were actually in ex-gay ministries and made their living working with people with unwanted homosexual 'feelings'. The strong vested interest in reporting successful outcomes is obvious.
5. *The sample is small.* Whilst Spitzer admits this, he fails to mention that it took him over 18 months to find the 200 participants and had to enlist the help of people such as the now infamous Dr. Laura (a high profile member of the Christian right). Others claim the search was more like three years to actually find 200.
6. *'Reparative therapy' is never clearly defined.* It has many hybrids none of which are based on scientific research.
7. *Length of time.* Previous studies with people who underwent aversion therapy and had married showed 20 years later that all marriages had failed (see chapter by Carlson). One wonders if these people who underwent 'reparative therapy' were interviewed in

another 10 years whether their marriages would also have failed. From my experience, it is frequently in midlife that these unresolved issues have to be dealt with.

8. *Bisexuality*. It appears that a large group of his sample were not initially exclusively homosexual and were possibly bisexual.

9. *Quality of their current heterosexual functionality is very subjective*. Some men reported having 'sex with a 100 men once but had sex with one woman 100 times'. My initial homosexual experiences, though frequent, were very limited and never contained the elements of love, passion, affection or intimacy and were constantly linked with self-loathing and guilt. Whilst having a fondness and love (not in love) for my wife, I realise now that sex was often little more than duty or release. I genuinely believed, as I had nothing else to compare it with, I was doing the right thing and that this was just how it was. This book helped me to see that experience as 'situational heterosexuality'.

10. *The study didn't look at those for whom 'reparative therapy' didn't work or did harm*. Mental health professionals have agreed that attempts to change one's sexual orientation cause stress and depression, often leading to thoughts of suicide because of constant failures. Some in the sample group had been in therapy for up to 15 years.

Religious groups immediately hailed the Spitzer study as a breakthrough, justifying their position that homosexuality is 'a chosen lifestyle'. It wasn't long before the dangerous implications of the study became evident. Chapter 36 (Stalstrom & Nissinen) tell us that opponents of the bill granting civil rights to same sex couples quoted Spitzer's work in the Finnish Parliament as authoritative. He wrote to the parliament and explained that his report was "based on a very unique sample", and that such results "are probably quite rare, even for highly motivated homosexuals". He added in the letter, "it would be a serious mistake to conclude from his research that homosexuality is a choice" (p. 310).

Reading this book brought many questions to mind. The one that comes up repeatedly though is "Why would an intelligent man like Spitzer have even done this study knowing how controversial it would be and that his methodology was lacking?" The answer finally comes in Chapter 35 "Political Science" from Wayne Besen's book *Anything but Straight*. Wayne gives us a behind the scenes account of communications with Spitzer, from the moment, in 1999, when he warns him of how such a study will be used politically, to Spitzer calling him after the release of the study crying "Wayne, help me get out of this mess" (p. 292). Maybe the answer lies in Spitzer's own words in the final chapter "And, I admit, there is something in me that is always looking for trouble or something to challenge the orthodoxy." (p. 305).

Chapter 34, "An Analysis of the Media Response to the Spitzer Study" (Lund & Renna) is a timeline of the events after the release of the paper that gives additional insight into the background of the entire saga. Spitzer's study does answer the question "Can Some Gay Men and Lesbians Change Their Sexual Orientation?" The answer is "no", but if you believe something strongly enough and develop behaviours that reinforce that belief, it will be real for you. That doesn't mean of course that it is reality... only the one you've created to make you feel secure, loved and accepted.

### Author Note

Anthony Venn-Brown is the author of *A Life of Unlearning: A journey to find the truth* (New Holland Publishers), President of Freedom 2 b(e) (a support forum for LGBTIQ people from Pentecostal backgrounds), and is accredited with the International Coaching Federation and Managing Director of Personal Success Australia. Email [anthony.venn-brown@psalifecoaching.com](mailto:anthony.venn-brown@psalifecoaching.com)



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a site developed for  
and by women  
who have  
sex with  
women

What is safer sex and why  
bother having it?

Staying safe emotionally before,  
during and after sex.

STI and risk reduction info relevant to  
women who have sex with women



girl2girl is produly produced by Sexual Health and Family  
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## **CALL FOR CONTRIBUTIONS**

Special Issue *Sexualities*

### **Recognising and Celebrating Non-Heterosexual Relationships: Current developments in theory and research**

Guest Editors: Victoria Clarke & Elizabeth Peel

The provisions of the Civil Partnership Act 2004 recently became a reality for same-sex couples in the UK. The UK is one of a growing number of jurisdictions that offer recognition to same-sex partnerships. Forms of recognition range from (not legally binding) commitment ceremonies, blessings and partnership registers to full, legal marriage. It would seem that legal and social recognition of same-sex relationships is no longer a fairy tale, and radical gay and lesbian feminist demands that marriage be dismantled are whispers from a distant past. Theory, research and practice in relation to legal recognition are often polarised around two distinct and competing positions: that legal recognition is the key to non-heterosexual equality and that legal recognition of same-sex relationships represents accommodation to heterosexual standards and the loss of distinctively non-heterosexual cultural and relational practices. Current debates about same-sex marriage are in danger of only recycling positions that were established in the 1980s, failing to take account of the substantial changes in the political and legislative climate since then. The legal recognition of same-sex relationships opens up a new agenda for research on non-heterosexual relational and familial practices and the possibility of reinvigorating debates on recognising and celebrating non-heterosexual partnerships.

We seek full-length empirical and theoretical papers and shorter commentary pieces that address the following (and related) themes and questions:

- \*Popular cultural representations of civil partnership, civil union, same-sex marriage and same-sex weddings
- \*The rise of the 'pink wedding' industry
- \*Feminist, queer and LGBT perspectives on relationship recognition and celebration
- \*Legal, social and ideological implications of civil partnership, civil union, and marriage – recognition or regulation?
- \*The meanings of dominant relational practices, rituals and symbols (such as name-sharing, ring exchanges, public celebrations) for non-heterosexuals
- \*Experiences of non-heterosexuals in civil partnerships, civil unions and marriages

The deadline for submissions (maximum 6000 words) is **1 July 2007**. Informal enquires and submissions should be sent to:

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# Gay and Lesbian Issues and Psychology Review

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## Preparation, submission and publication guidelines

Types of articles that we typically consider:

A)

- Empirical articles (4000 word max)
- Theoretical pieces
- Commentary on LGBTI issues and psychology
- Research in brief: Reviews of a favourite or troublesome article/book chapter that you have read and would like to comment on

B)

- Conference reports/conference abstracts
- Practitioner's reports/field notes
- Political/media style reports of relevant issues
- Book reviews (please contact the Editor for a list of books available & review guidelines)
- Promotional material for LGBT relevant issues

The Review also welcomes proposals for special issues and guest Editors.

Each submission in section A should be prepared for blind peer-review if the author wishes. If not, submissions will still be reviewed, but the identity of the author may be known to the reviewer. Submissions for blind review should contain a title page that has all of the author(s) information, along with the title of the submission, a short author note (50 words or less), a word count and up to 5 key words. The remainder of the submission should not identify the author in any way, and should start on a new page with the submission title followed by an abstract and then the body of the text. Authors who do not require blind review should submit papers as per the above instructions, the difference being that the body text may start directly after the key words.

Each submission in section B should contain the author(s) information, title of submission (if relevant), a short author note (50 words or less) and a word count, but need not be prepared for blind review.

All submissions must adhere to the rules set out in the Publication Manual of the American Psychological Association (fifth edition), and contributors are encouraged to contact the Editor should they have any concerns with this format as it relates to their submission. Spelling should be Australian (e.g., 'ise') rather than American ('ize'), and submissions should be accompanied with a letter stating any conflicts of interest in regards to publication or competing interests. Footnotes should be kept to a minimum. References should be listed alphabetically by author at the end of the paper. For example:

Journal Articles: Riggs, D.W. (2004). The politics of scientific knowledge: Constructions of sexuality and ethics in the conversion therapy literature. *Lesbian & Gay Psychology Review*, 5, 16-24.

Books: Kitzinger, C. (1987). *The social construction of lesbianism*. London: Sage.

Edited Books: Coyle, A. & Kitzinger, C. (Eds.) (2002). *Lesbian & gay psychology: New perspectives*. Oxford: BPS Blackwell.

Book Chapters: MacBride-Stewart, S. (2004). Dental dams: A parody of straight expectations in the promotion of 'safer' lesbian sex. In D.W. Riggs & G.A. Walker (Eds.), *Out in the antipodes: Australian and New Zealand perspectives on gay and lesbian issue in psychology* (pp.393-416). Perth: Brightfire Press.

References within the text should be listed in alphabetical order separated by a semi-colon, page numbers following year. For example:

(Clarke, 2001; Peel, 2001; Riggs & Walker, 2004)  
(Clarke, 2002a; b) (MacBride-Stewart, 2004, p. 398)

Authors should avoid the use of *sexist*, *racist* and *heterosexist language*. Authors should follow the guidelines for the use of non-sexist language provided by the American Psychological Society.

Papers should be submitted in Word format: title bold 12 points, author bold 11 points (with footnote including affiliation/address), abstract 10 points left aligned, article text 10 points left aligned. All other identifying information on title page for section A articles should be 10 points and left aligned.

All submissions should be sent to the Editor, either via email (preferred): [damien.riggs@adelaide.edu.au](mailto:damien.riggs@adelaide.edu.au), or via post: School of Psychology, The University of Adelaide, South Australia, 5005.

## Deadlines

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May 30 for August edition

September 30 for December edition



