



Contents lists available at ScienceDirect

# Women's Studies International Forum

journal homepage: [www.elsevier.com/locate/wsif](http://www.elsevier.com/locate/wsif)

## The discourse of abortion law debate in Australia: Caring mother or mother of convenience

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### ARTICLE INFO

Available online 24 March 2016

### SYNOPSIS

This paper explores the political discourse and language used in the Federal and Victorian parliaments and associated speeches during recent abortion reform debates. The purpose is to expose the underlying assumptions and constructions that favour the maintenance of a particular concept of a 'woman' who seeks an abortion. We examine the significance of particular stereotypes and what impact those discourses have on political debate and legal outcomes. The paper also provides a functional analysis of this discourse. It argues that the discourse used by politicians opposing reform functionally undermined the conservative outcomes desired by those same politicians. However, their discourse was successful in terms of perpetuating the stigma surrounding abortion and in justifying continuing state oversight or intervention.

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### Introduction

One of the functions of law is to define and create relations where none existed before (Danet, 1985).<sup>1</sup> This function of law is particularly relevant in the area of abortion law where the definition of baby/person/human or foetus/embryo has significant moral and legal implications. Some would argue that these traditional dichotomies are unfortunate, but they remain important while they affect substantive rights contained in criminal and civil law. Further, the discursive construction of these signifiers has profound effects on the construction of gender, in particular the construction of 'mother' and 'woman'. Language usages of these terms construct the boundaries and frame the use of discourse and debate in the discussion of abortion. In a wider sense, although discourse is contested dialogue in a Foucauldian understanding, it contributes to a meaning system that sets out the boundaries of 'acceptability' between right and wrong and moral and immoral as reflected eventually in the law, although such boundaries are continually being tested amongst requests for reform (McIlvenny, 2002, p. 17).

This paper provides a critical discourse analysis of the language used by politicians in the Australian Federal and Victorian

parliaments, as well as interviews and reported speeches within Australia during recent abortion debates. Discourse in this paper is used in a Foucauldian sense as a means to produce knowledge and subjectivities, create boundaries and processes of classification and exclusion (Hook, 2001, p. 522). While critical discourse analysis is interested in discourse as an instrument for the social construction of reality and the exercise of power generally, our examination is confined to the speech of politicians. Politicians are in positions that enable them to define what is 'real' or 'moral', as such, their utterances have a normative status and significant implications for the exercise of women's reproductive rights (Dudova, 2010, p. 948).

The discourse analysis contained in this paper demonstrates how selected language narratives construct ideal and false gender stereotypes and normative roles elevating particular ideals of womanhood and stigmatising others. This paper adopts the insights of Butler and Cameron that gender has to be constantly reaffirmed and 'displayed in spoken interaction, through this contingently repeated citation, gender differentiation and gendered speech become naturalized' (Butler, 1993; Cameron, 1998; McIlvenny 2002, p. 6). In addition to providing a theoretical analysis of discourse, this paper also explores the functional analysis of discourse (van Dijk, 1985, p. 1-2). It also

examines the relationship between political discourse and the stigmatisation of abortion and the women seeking or having an abortion. It concludes that the use of language by the politicians referred to in this paper functionally undermined the conservative outcomes desired by some in the area.

This paper is divided into four parts. It begins with a brief overview of the recent commentary pertaining to abortion law in Australia and Victoria discussed within the context of political and parliamentary debates. It should be noted that the examples of political discourse used in this paper are selective. Our focus concerns the discourse and speeches of parliamentary opponents of abortion and the assumptions underlying that discourse. The second part of the paper analyses these by employing a critical discourse methodology. It examines how the discourse of opponents to abortion rely on stereotypes and forms of essentialism that serve to undermine women's substantive equality. The third part of the paper will move away from a theoretical analysis of discourse to a functional analysis of discourse. The final part provides some concluding comments.

### Recent discursive markers in abortion law commentary in Australia

Historically in Australia, the issue of abortion has not attracted the violent protests that are frequently part of the American political landscape, nor has it featured prominently in parliamentary debates. This began to change in 2004 when it was put back on the political agenda by a small but vocal group of conservative members of the Federal Parliament. It began in 2004 with a speech by the previous Prime Minister of Australia, Tony Abbott (then Minister for Health), given to the Adelaide University Democratic Club on the topic *The Ethical Responsibilities of a Christian Politician*. He said,

The problem with the contemporary Australian practice of abortion is that an objectively grave matter has been reduced to a question of the mother's convenience ... abortion is the easy way out.

... When it comes to lobbying local politicians, there seems to be far more interest in the treatment of boat people, which is not morally black and white, than the question of abortion which is. Oddly enough, no local Christian has ever asked me how, as a Catholic, I can preside over Medicare [the Australian health care] system which funds 75,000 abortions a year (Abbott, 2004).

In this speech, Abbott also posed the question; 'What does it say about the state of our relationships and our values that so many women (and their husbands, lovers and families) feel incapable of coping with a pregnancy or a child?' (Abbott, 2004). To comprehend the exasperation in Abbott's question, one needs to understand his perception of the family and the important position it holds in society, as well as the role of women in the family and the broader society. Abbott argues that the 'basic problem' with modern western countries is that they have privatised the next generation (Abbott, 2009). He claims that having 'children tends to be regarded as a personal choice rather than a social good' (Abbott, 2009, p. 97). Referring to the 'child drought', Abbott criticises government

support to low-income mothers while arguing for the provision of government support for middle-income families to allow for this group of women to take time off work to have a baby (Abbott, 2009, p. 98). In contrast to many conservative politicians, he has a more nuanced policy position on motherhood and work in that he recognises that most women engage in employment and in order to encourage them to have children government and business must provide generous paid maternity leave scheme. He acknowledges that modern families require two incomes but wishes to see fertility rates rise above replacement levels and therefore argues in favour of a stimulus package for families (Abbott, 2009, p. 97–106).<sup>2</sup> He notes that a study undertaken by the Menzies Research Centre concluded that 'the crux of the low fertility problem is not that women prefer having a career to having a family but inadequate income to support a family' (Abbott, 2009, p. 98). Underlying this view is the assumption that 'motherhood' is the natural disposition for women and only economic factors stand in their way. In this worldview, 'woman equals mother'.

Despite his reference to the position of husbands and lovers above, Abbott does not discuss the role of these other parties. His primary focus is on women and how government can assist them to be more fertile within the traditional family structure (Millar, 2013, p. 93). Indeed, Millar draws attention to the fact that in his comment, Abbott 'framed the abortion rate in terms of the security of the nuclear family' (Millar, 2013, p. 93). In so doing, Abbott situated the aborting woman outside the realms of the family. Abbott further stated that he wished to see 'fewer abortions, fewer traumatized young women and fewer dysfunctional families' (Abbott, 2004). While emphasising that he did not wish to 'stigmatize the millions of Australians who have had abortions or encouraged others to do so', he nonetheless suggested that they did not 'understand that their actions have consequences' and failed to take 'their responsibilities seriously' (Abbott, 2004; Ryan, 2014, p. 10). According to Ryan, by referring to 'consequences' and 'responsibilities' he questioned the moral integrity of aborting women (Ryan, 2014, p. 10). She argues that it suggests that the abortion debate is 'also fundamentally a debate over female sexuality, whereby women who have sex for pleasure rather than procreation are construed as immoral and not willing to take responsibility' (Ryan, 2014, p. 10).<sup>3</sup>

Abbott claims that he made a distinction between 'deploring the frequency of abortion and not trying to re-criminalise it' (Abbott, 2009, p. 180). In fact, Abbott as a federal health minister could not recriminalize abortion as it was regulated under state law. However his then parliamentary secretary, Christopher Pyne, introduced a bill titled the Health Legislation Amendment Bill 2005 to amend parts of the *Health Insurance Act 1973* that 'would have granted Abbott as health minister extraordinary power to determine that Medicare benefits [publically-funded] were not available for certain procedures' (Gleeson, 2012). The bill was widely viewed as a surreptitious attack on abortion (Gleeson, 2012). In addition, as health minister, Abbott also created a National Support Pregnancy Helpline to assist in addressing concerns about the abortion rate (Davis, 2010). Government funding was provided to a Catholic organisation to run the Helpline and provide counselling on unwanted pregnancies excluding information about terminations (Davis, 2010; Ryan, 2014, p. 41).

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