
OPINION

A Motherhood Statement

Why 'motherhood'? Why 'motherhood and the law'?

Isn't talking about motherhood a little passé these days? After all, we know that a motherhood statement is all about being bland and banal but utterly lacking in substance. It just doesn't grab us. Does it?

No. But it should.

Motherhood and the law is not bland and banal. Far from it. How the law treats motherhood is the critical test of equality. It is at the coal face of feminism.

We need to use feminist methods to look at motherhood and the law. We must keep asking the 'woman' questions. Where are women? What is happening to women? Where is it going wrong? What can we do about it? Where are we headed?

Where *are* we headed? We are headed to some new place where a woman's biology does not determine her place in society. Where the discourse of 'woman' does not mean that women are inferior. We are headed to a place where women are not inferior. That simple.

So how do we get there? That is not so simple. Getting our hands dirty and working out how to fix the problems is not as easy as making the 'clean' polemical statements of principle.

But many women are getting their hands dirty. Much has been written about motherhood and the law. You only need to look at any feminist reader on feminist legal theory. The 'equality riddle' of pregnancy generates lively debate. Should we pursue a model of special treatment or equal treatment when dealing with the 'case of pregnancy'? Should we 'transcend' such a dichotomous approach altogether? More needs to be written. We need to think more and write more and talk more.

We need to look at women now. Too many still consider that the essential role of woman is mother. Society bestows considerable social approval on women who become mothers. But that social approval is contingent on mothers becoming mothers in the 'right' circumstances. Society imposes huge social and economic disadvantage on women who become mothers in the 'wrong' circumstances. The single mother. The lesbian mother. The migrant mother. The Aboriginal mother.

Women re-entering the workforce after having children have limited options. It is difficult to get part time and/or flexible working hours. Women are often faced with a 'take it or leave it' option of full time work. Women in the workforce struggle with unequal pay, childcare problems and the added burden of unpaid work in the home. Women take the major responsibility for caring for children at the

expense of their careers. Men have not accepted the responsibility of shared parenting. So it remains that women cannot put in the male hours or they lack male mobility or they have to abandon the hope of decent wages and career progression by taking part-time or casual jobs. The mummy track yawns ahead of them ...

Heard it all before, haven't you?

Yes. But it is astonishing that some recent legal reforms and debates assume that gender equality exists. No evidence supports the view that such a radical shift in gender relations has occurred. Even if we use the least onerous model of equality — that of formal equality — there is no evidence to support such a view.

We must deal with the false notion that gender equality has been already achieved. This notion informs public policy. Take these three examples. First, the changes to custody and access in the recent amendments to the Family Law Act assume that fathers will play an equal role in their children's lives after divorce, despite their reluctance to do so before divorce. Secondly, lesbian mothers now can be parents. Sure. But only when the State is getting them to cough up the cash for child support, not when substantive rights like custody or access are being handed out. Thirdly, gender blindness and systemic discrimination against women in superannuation schemes remains. Many women don't even have a foot in these schemes usually because of years spent carrying out caring commitments.

And yet, men argue that *they* now are disadvantaged. One of the recent opinion pieces in *The Weekend Australian* blared the absurd headline 'Men: The New Second Sex'.

So, that is where women are and what is happening to them. What can we do about it? We need to re-vision parenting. We need to re-vision the workplace. We need to keep thinking of new ways. These ideas are not new but we need to keep repeating them because change is not happening and it simply must. There is another way. We *will* find it.

One day the intersection of law and motherhood will not be such a bad place.

One day it won't only be women who face agonising choices and regrets about having children and working.

One day women won't say 'I think I've changed my mind'.

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On behalf of the ACT Editorial Committee