

Abortion

A woman's right to choose



The case for law repeal

Pip Hinman &
Claudine Holt

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ABORTION: A WOMAN'S RIGHT TO CHOOSE THE CASE FOR LAW REPEAL

By Pip Hinman and Claudine Holt

In January, 1998, following months of investigation, a doctor and an anaesthetist in Perth, Western Australia, were charged with attempting to procure an abortion in November of 1996. Following a bizarre fishing expedition by the Department of Public Prosecutions (which involved the police confiscating the foetal products which were to be buried by the woman in New Zealand, and charges considered against her and her counsellor), the two doctors have been charged under the state's crimes act — a 19th century law which outlaws abortion in all but life-threatening situations.

The doctors are the first in 30 years to be charged under the act. If convicted, they face up to 14 years' jail. The WA Australian Medical Association has demanded the law be repealed. Until then, it has advised women seeking abortions to travel interstate.

The case sent shock waves throughout the state and beyond. Many young women, and others, assumed that because abortion was accessible in WA it was therefore legal. Not so. While the law in WA had been liberally interpreted by judges following the 1969 Davidson case in Victoria, as have the laws in NSW and Queensland, the fact is that abortion is still governed by crimes acts or criminal codes in all states and territories.

The WA case reminds us again that while abortion remains a crime women do not have the fundamental right to control their reproductive lives.

For some 20 years, the women's movement has been campaigning to repeal

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these reactionary laws. With the polls consistently showing a clear majority — both men and women — support women's rights to control their reproductive lives, the law is an anachronism.

Yet, over the past two decades, MPs have been reluctant to act. The standard refrain from pro-choice Labor MPs and their sympathisers has been “Don't rock the boat”, arguing that it's best to rely on the legal precedent rather than risk more restrictive laws.

This, as recent events remind us, is dead wrong. While abortion remains a crime on the books, reactionaries can, and are, finding ways of further limiting women's access to abortion services. A new national criminal code, modelled on the restrictive South Australian law, poses a further threat to women's access to abortion services.

However, the vocal and public campaign in WA to repeal the clauses relating to abortion in the crimes act, involving people from church, union and student groups, is a sign that things are changing.

Following mounting pressure from the pro-choice movement in response to the government's restrictive four-point abortion bill, Labor MLC Cheryl Davenport made her private member's bill a repeal bill, setting a precedent for feminists across Australia to argue that no longer will they be held hostage to anti-abortion laws and MPs' consciences. They want all anti-abortion laws repealed — now.

Two days after the International Women's Day march in Perth on March 8, which demanded the repeal of the anti-abortion laws, the “Time for Repeal” campaign mobilised some 1000 people, in pouring rain, outside Parliament House to add their support to the repeal bill introduced that day into the upper house. For any repeal campaign to be successful, this type of mobilised public pressure will have to be sustained.

The Liberal WA state government has responded with a restrictive five-tiered bill which, under pressure from the anti-abortion lobby, became a four-tiered bill when the fifth point, outright decriminalisation, was removed. Anti-abortion MPs on both sides of the house have sought to make Attorney General Peter Foss' bill even more restrictive, including forcing the woman seeking an abortion to see two doctors, and imposing a seven-day “cooling off” period before she can proceed with the operation.

Meanwhile, an esoteric debate over strategy has been re-raised. Some women academics, who say they support women's right to abortion, disagree with the slogan: “Our bodies, our lives, our right to decide!”. They argue that it's not

a question of women's rights *per se*, but a moral question for each individual woman.

No-one is saying that the decision to abort is not without its difficulties, as it is connected to all other aspects of a woman's life. But their almost exclusive focus on individuals' "moral responsibilities" means that the state is let off the hook.

In the accompanying article, Lisa Macdonald takes issue with the latest proponent of this view, Leslie Cannold, stating that her refusal to argue first and foremost in terms of rights is a refusal to engage in the project of influencing the state's position on abortion.

They also, inadvertently, play into the hands of the right wing which relies on a mixture of emotional moralism and guilt to push its reactionary anti-choice agenda.

Feminists have been campaigning for decades for society to be re-organised to allow women the right to make up their minds on if, and when, they reproduce. Those who argue that the issue is "more complex" than feminists are making out, miss the point.

Whether the repeal campaign in WA wins or not is largely dependent on whether the pro-choice forces there and across Australia are successful in keeping public opinion mobilised. This is the essential political tool the anti-choice forces do not have.

Unless we strive to build on the momentum generated from the WA campaign and strengthen public opinion and pressure for repeal of *all* abortion laws, we leave the running to right-wing anti-choice bigots such as Right to Life.

If a woman cannot make decisions on if, when and how many children she will bear, then she has little control over other aspects of her life.



Let's begin by restating some basic points — obvious to feminists, but not so obvious in the public debate about abortion.

A woman's access and freedom to choose abortion is a fundamental precondition to having control over her life.

Being forced to carry an unwanted pregnancy to term imposes irreversible circumstances that can alter a woman's relationship to her body, her sexuality, her self-esteem, her friends, family and lovers, her work, her financial status, her mental and physical health and her life goals.

This doesn't counterpose abortion to contraception. The two are

complementary, and for many, abortion may not be the preferred method of contraception. But accidents do happen. No contraceptive is 100% guaranteed. Circumstances do change. And rape and incest are certainly not under a woman's control.

Without access to abortion, women become prisoners of their reproductive systems, and prisoners of a stereotype and culture that promotes motherhood as *the* valid role for women. This doesn't mean that feminists are anti-motherhood, as the number of mothers involved in pro-abortion campaigns shows. As one major slogan of the campaigns to win abortion access in the past put it: "Every child a wanted child". Instead, it means that women have the right to basic physical self-determination — our bodies, our lives, our right to decide.

Abortion is a health issue.

What is central is women's access to a variety of medical procedures carried out in the appropriate safe medical centre of their choice. It's not that abortion goes away when its illegal; the statistics worldwide show this. It just means that women will seek abortions in unsterile and unsafe conditions, turning a simple

Abortion throughout history

Society always judged that human life takes precedence over foetal life. Thus abortion for centuries has been a common method of birth control.

Anthropological studies show abortion to be widespread in ancient and pre-industrial societies, throughout the world. Australian Aboriginal women use numerous abortifacients, with at least five known remedies in northern Australia alone.

In Thailand, Malaysia and the Philippines, village abortionists still continue their traditional technique of massage. In ancient Greece and Rome, abortion was accepted during the early days of pregnancy.

Even the Catholic Church once condoned abortion until the foetus become "animated" by the "rational soul", some 40 days after conception of a male foetus, and 90 days for a female.

The church did not initiate the repression of abortion, which was first restricted in Britain in 1803, followed by the US. It wasn't until 1869 that Pope Pius IV declared all abortion to be murder.

US and English common law dating back to the 13th century tolerated abortion up until the pregnant women first feels the foetus move, about 20 weeks.

medical procedure into a potentially life-threatening one.

In Australia, two out of every three pregnancies are unplanned, and despite the restrictive laws, one out of every three women will have an abortion sometime in her lifetime. According to the 1997 National Health and Medical Research Council report, until the laws were liberalised in the last 20 years, between 20-30% of maternal deaths were the result of botched abortions.

Unhindered access to abortion or to any matter concerning reproductive choices is more than a matter of individual rights, and more than a question of individual choice.

These are not options that can be viewed in isolation from society. These are social questions and they concern social rights that are fundamental and necessary for women to be able to take decisions about their lives.

Access to abortion *without* safe, affordable and accessible medical and counselling services, both before and after, is just as discriminatory as having children without access to economic support and affordable, quality child-care. It means the rich can afford to choose and the poor have to make do. The formal right must be a substantive right, that is, exercisable by *all* women. Economic and social resources have to be *guaranteed* by society to ensure access and informed choice. That's the basis for women's autonomy on these issues.

We need to be bold and up-front in tackling the issues head-on and saying what we support.

We are *for* abortion facilities being accessible to all women so that whenever individual women choose, they can exercise their right to control their own fertility. In that sense we are clearly pro-abortion. But that doesn't mean we want to impose abortion on women who don't choose that option. That's the false picture the right wing are trying to paint about pro-abortion forces.

And we needn't be too reluctant to attack the credentials of the "pro-life" advocates. Most of the anti-abortion groups around the world claim deep religious beliefs and a single-minded commitment to protect the foetus. However, they demonstrate a total lack of concern about the environment into which this potential human life may enter. Nor do they care for the woman who is facing this decision, or her existing family, or her health and circumstances.

CRIMES AND "CONSCIENCE"

In Australia, it is now more than 20 years since feminists and organisations such as the Humanist Society first campaigned to repeal anti-abortion laws contained in the various criminal codes. Their aim was to allow women to have

legal abortions in medically safe conditions.

While these campaigns did not achieve all of their goals, it is largely because of their efforts that women today enjoy greater access to safe abortion. That's a tremendous advance for Australian women when you consider that worldwide, it is conservatively estimated by the World Health Organisation, more than a quarter of a million women die each year from illegal and unsanitary abortions. Fifteen times as many women suffer some form of physical injury each year from such back-yard abortions.

But there is no room for complacency since most access to abortion in Australia rests on a question of legal precedent. Despite more than 20 years of liberalisation, abortion is still a criminal offence in all states and territories. Access to lawful abortion is permitted in certain instances under common law rulings where a judge has made a liberal and broader interpretation of when abortion may not be considered criminal.

The issue of abortion is treated very differently from other medical and political issues.

Myth: Abortion kills “unborn children”

Right to Life peddle the myth that life begins at conception. Instead of showing a foetus at four to 12 weeks, they present blown-up images of 30-week-old foetuses with hands and feet to show how child-like they look. This is an attempt to use emotion-laden words to obscure the real issues involved.

A fertilised egg, embryo or foetus is only a potential human being. It lives in the body of a pregnant women and, for at least six months, is unable to live independently. A foetus has no contact with the outside world or with human society, and therefore has no human thoughts or emotions.

Any “humanity” that a foetus possess is at most an abstraction. There is, however, nothing abstract about the humanity of a pregnant woman. She has very real hopes, fears and aspirations for her future. To force her to bear a child against her will can radically change and even destroy her life.

Obviously, any women who does not want to bear a child would much prefer to prevent pregnancy altogether, or terminate a pregnancy at the earliest and safest point. But until a contraceptive is developed that is safe, effective and meets the needs of women, abortion is a necessary recourse to preserve the quality of life of a real, not a potential human being.

One of 10 most common medical procedures, abortion is the only one which is a crime. It is also the only medical procedure which doctors and other health professionals are excused from providing if they oppose abortion on the grounds of “conscience”. Just imagine if “conscience” was applied to other medical practices like giving a blood transfusion, a vasectomy, or the administration of drugs — your medical practitioner wouldn’t have a job for very long and, in addition, could face charges of criminal neglect!

Just consider how ludicrous the current situation is: a 15-minute medical procedure (when performed under a local anaesthetic) which is seven times safer than carrying a pregnancy to term is singled out for such special treatment! Abortion is in fact one of the safest surgical procedures when performed in sanitary conditions by a competent practitioner.

Abortion is one of the few political issues where parliamentarians of all major and most minor parties, including the Australian Democrats and the Australian Greens, have the right to vote “according to their conscience”, even where the party has a pro-abortion policy. That means MPs can cross the floor and vote with the opposition on this issue and not face demotion or expulsion from their party.

A “conscience” vote allows individual MPs to impose their own personal views on the public rather than enact party policy, on which they were elected. While, for instance, Labor’s newly adopted federal platform states it will “Support the rights of women to determine their own reproductive lives, particularly the right to choose appropriate fertility control and abortion”, and “Ensure that women have a choice regarding their reproductive lives on the basis of sound social and medical advice”, Labor MPs will not be bound to what sounds like a reasonable policy on paper.

Myth: Condoning abortion means condoning eugenics

The fact that women, who want to bear children, can decide to have an abortion after a genetic test has nothing to do with eugenics which is about trying to improve offspring with selective breeding. The decision to abort is based on whether she (and her partner) believe they could raise a disabled child. With more and more funding cut-backs in public child and family support services, it is hardly surprising that many women feel unable to continue the pregnancy if they know that their future child will require a lot of support.

Their defence is that abortion is a “personal” issue. It’s not. The decision about having an abortion is personal, but the right to do so is political. The right to decide must be guaranteed to all women.

RIGHT-WING ATTACKS

It’s hypocritical anomalies such as these which provide the context for anti-abortionists to undermine access to abortion. Attacks by right-wing campaigns have taken place on a range of fronts ever since liberalised access was won.

Myth: Legalising abortion will set a precedent for eliminating the old and sick

Another lie peddled by Right to Life is that if people get used to “extinguishing human life for convenience”, they will soon move on to old people, the mentally ill, or racial minorities. This is nonsense.

The argument appeals not so much to an abstract concern for the “sanctity of life” of the foetus, but rather to people’s justified concern about the callousness shown by this society towards the elderly, the mentally ill or disabled and oppressed nationalities.

Using this argument, the anti-abortion forces try to turn this concern against the pro-choice movement. It assumes that it is humanistic and pro-life to equate foetal life with the lives of human beings. Using slides and bottles of pickled fetuses to conjure up feelings of horror at abortion, the anti-abortionists try to cover up the horror that anti-abortion laws can mean for women.

They don’t talk about the callousness of driving women to secretly seek out abortion services, or to attempt the desperate step of self-administered abortion. They don’t mention the misery of battered, unwanted children. They don’t mention the psychological damage caused to women brought by the fear of an unwanted pregnancy that could destroy their lives.

What kind of “respect for life” is it that justifies making women reproduce against their will? The real disrespect for life is the harm done to women, their families and unwanted children by anti-abortion laws.

The other real disrespect for life is government policy which threatens the old, the sick and the less fortunate with cutting off social services and other assistance. You don’t hear a squeak about this from the anti-abortionists.

These have varied from repeated parliamentary attempts to remove the partial Medicare rebates for terminations; to limit abortion to cases of rape or incest; to limit abortion availability to a small number of designated public hospitals; to define the beginning of human life at the moment of conception by giving full legal rights to the foetus; to cut government funding for family planning and other counselling services, etc.

The attacks have also included physical and verbal harassment of women seeking abortions at clinics, of doctors and medical staff providing abortions, and of women who have had abortions.

Although the struggle for abortion has not been so brutal or as fiercely contested here as in the United States, Right to Life, backed by anti-choice MPs from the Liberal-National Coalition and the Labor Party, has conducted some despicable campaigns, clouded the discussion and attacked the availability of abortion here.

It's time for us to take the initiative to set the agenda on abortion away from the right-wingers. That means building on the strength of the campaign already begun in WA, by campaigning for the repeal of abortion from the relevant clauses of the criminal codes of *all* states and territories.

Abortion in Australia is always presented as a hugely controversial issue that polarises the community. In reality, opinions are not so divided. While support for abortion rights reached a high point in 1991, with a poll commissioned by NSW Abortion Rights Coalition and conducted by Anderson McNair and showing 81% supported a woman's right to choose, surveys have continued to show a clear majority supports abortion rights. In 1996, it was 77%.

Even 56% of Catholics support women's right to abortion, as revealed by a Queensland survey conducted in 1991. The Uniting Church of Australia has adopted a position supporting a woman's right to choose abortion under any circumstance despite public attacks by Right to Life and the fact that anti-choice campaigner, the Reverend Fred Nile is a Uniting Church minister.

It's worth noting that since the early 1990s, the percentage in favour of a woman's right to choose has fallen. This can be attributed, at least in part, to the decline of an organised and campaigning feminist movement, strong enough to counter the anti-woman backlash propaganda which accompanies the major parties' neo-liberal austerity drive.

However, when the struggle for abortion rights heats up, as it has in WA, it's clear which position has the support of the majority. A recent poll commissioned by the *West Australian* showed 82% supported the legalisation of abortion. Only

11% did not, and 7% were unsure.

While abortion supporters are in the majority, a minority has tended to control the debate. It is a minority, backed by reactionary political forces who do not want women's role in society advanced, that allow Right to Life and its cohorts to exert such influence in the debate.

This society relies on women continuing to shoulder the double burden of paid work and unpaid labour in the family home. The subjugation of women within the family provides the economic, social and ideological foundations that make their super-exploitation possible.

The "back-to-the-family" propaganda offensive, which accompanies the neo-liberal austerity policies of all state governments, as well the federal Coalition, is aimed at reversing many of the reforms women have won over the last two decades. The drastic cuts to child-care, education, public health and the introduction of individual workplace contracts, which will reinforce the sex segregation of industry, will make women's lives even more stressed as they struggle to juggle their endless responsibilities.

Obviously, the ruling class stands to lose much in financial terms if women gain control over their reproductive lives. This is because it would certainly lead to higher expectations and demands for control over other aspects of their lives. While the state relinquishes its social responsibilities, forcing these onto the private sphere — the family, and women in particular — it saves a considerable amount on what would otherwise be spent on providing professional, affordable child-care and aged-care, among other essential social services.

THE LAW IN AUSTRALIA TODAY

Abortion law in Australia is a state matter and governed by various state and territory crimes acts and criminal codes. The laws are based on British law

Myth: Abortion is a divisive issue, and when unions support abortion rights they offend some members

The issue of abortion rights divides people into those who support it and those who don't. As polls consistently show, most people support women's right to abortion. When unions campaign around a range of issues, they "offend" some of their members. However, minority opinion must not hold back the majority actively supporting women's rights. If unions refused to be active on any issue that some members disagreed with, they would be paralysed.

of 1869, which stipulates that a pregnant woman who unlawfully procures an abortion, or someone who helps her or gives her drugs to induce miscarriage, faces up to 10 years “penal servitude”.

Australia is a signatory to the 1979 United Nations Convention on the Elimination of All Forms of Discrimination against Women — the “bill of rights for women” — yet the federal government is about to recommend that the states adopt a new national criminal code which will bring the legal status of abortion into line with the most restrictive of the current state laws — those in SA.

This will mean abortion access in Victoria, NSW and Queensland, the three states where the laws have been more liberally interpreted (Menhennit ruling, 1969; Levine ruling, 1971; McGuire ruling, 1986 respectively) giving women more access to abortion, will be restricted.

In Victoria, cuts to family planning clinics in 1993, meant that some 40 of these services were closed in rural areas. Private clinics and private facilities within some public hospitals provide abortions up to 18 weeks. Public services in hospitals (with the exception of Catholic hospitals) are available up to 16 weeks, and 22 weeks for foetal abnormality. Regional hospitals provide abortions within the first trimester where doctors and hospitals permit.

In South Australia and the Northern Territory, the laws have been amended to allow abortion under certain circumstances. However, the laws explicitly prohibit abortion beyond week 14 in the NT and week 20 in SA (except in extraordinary circumstances).

In Tasmania, the laws have never been tested and, after an eight-year

Myth: Abortion is traumatic for all women

It is clear from psychological studies done over the years that women experience a range of emotions before and after their abortions. For some this may involve some stress and even trauma, but the great majority feel a sense of relief. This is also the reason why counselling services both before and after the operations are so important.

A woman who wants to bear a child, but who makes the decision to have an abortion as a result of genetic abnormality screening tests, (the results of which can be delayed to the latter part of the second trimester), is faced with a very difficult decision. However, despite Right to Life’s pictures of 30-week old foetuses, these types of abortions constitute less than one per cent of abortions nationwide.

campaign, there is only one free-standing clinic and a private hospital in Hobart which provides a limited service.

In Queensland, the private sector provides most of the abortion services. Three clinics operate in Brisbane, and there is one each in Caboolture, Townsville and Rockhampton. Many Queensland women have to travel to Tweeds Head in NSW for abortions as a result of limited services.

In the ACT, after a vocal and broadly supported campaign in 1992, the 1978 Limited Access Act based on the South Australian model was repealed. However, abortion is still a criminal offence in all but a few circumstances.

Surveys show women in all states and territories face difficulties obtaining abortions beyond week 12 or 14. The few clinics which have cut-off dates later than 14 weeks still tend to demand women prove they are “deserving” before they will be “granted” an abortion, and in all cases refuse to perform post 20-week abortions.

Clinics choose 20 weeks as their cut-off point because in 1978 the World Health Organisation issued guidelines — now acknowledged to be based more on political rather than medical considerations — which recommend against abortion beyond 20 weeks except in cases where a woman's life is in danger, or the foetus is severely deformed.

FIDDLING WITH LAWS

It is worth looking at the situation in South Australia in more detail as it is a good example of why fiddling with the laws, rather than removing them, will not guarantee women's access to abortion.

In spite of the law being amended in 1969 to allow abortion in SA in some circumstances, it still remains part of the criminal code. While the 1969 legislation was in many ways a victory, it had, and has, severe limitations. During its first year, women were still being sent to Victoria and NSW, where at that time abortion was still unlawful, to have terminations because the provisions in the legislation were too restrictive.

The legislation stipulates that abortions can be performed only in designated hospitals thus prohibiting the establishment of free-standing clinics, which have so far provided the best services for women. A woman must have the consent of two doctors and she must be a resident of SA for at least two months. The foetus must be no more than 28 weeks old.

Doctors and nursing staff have the right to refuse to perform abortions on the grounds of conscience, which meant that after a campaign by Right to Life some

years ago no doctors were willing to perform second trimester abortions.

In 1991, it was estimated that there were, at the most, only four doctors performing terminations and 10 nursing staff who would assist. Add this to massive cut-backs to the public hospital system leading to delays for any surgical treatment and the situation for SA women looks even grimmer.

Some women still travel to NSW and Victoria because new technology, which has been introduced into privately-run clinics, provides a better and more sympathetic service.

Reforming existing abortion laws is not enough to guarantee access and availability, as the SA example shows. And it is a lot easier for right-wing forces to tamper with existing laws than have abortion laws introduced from scratch. In 1988, Right to Life in SA tried to reduce the time limit on access to abortion from 28 to 24 weeks, and require that one of the two doctors' signatures be that of a psychiatrist.

In 1986, a SA government report suggested that special outreach clinics for first and second trimester abortions be set up as adjuncts to the then four major

Myth: Women only want abortion “for their own convenience”

Can the desire for personal liberty and well-being be reduced to a matter of “convenience”? What about the desire of women to control their own destiny? Or is this right only limited to men?

Women want the right to abortion because it matters very much to them to be able to make decisions about their lives. It can matter so much that they are willing to face death rather than be forced to continue an unwanted pregnancy.

Since the marketing of the contraceptive pill, women have had greater control over their reproductive lives. However, no contraception is 100% effective. Mistakes happen. Today, in Australia, two out of every three pregnancies are unplanned and, despite the laws, one out of every three women will have an abortion.

Until fail-safe contraception becomes available, and women are no longer raped, women will require access to abortion services. Also, women have to be allowed the right to change their minds when their circumstances change. If hygienic, regulated services are not provided, women will resort to backyard operators and risk their lives.

hospitals providing abortion services. By 1988, the government had agreed to develop one such clinic.

Once approval was granted in principle it took 18 months for the government, facing a vigorous campaign by Right to Life, to make funding available. This abortion clinic was finally established on hospital grounds in early 1992.

In NSW, where abortion services are considered to be the best and most accessible in the country (most are performed in private clinics; public hospital quotas and policies limit the provision of services), abortion access is also under threat.

In April 1994, a NSW woman whose pregnancy remained undiagnosed for 19 weeks sued her doctors for damages on the basis that they were negligent and that their negligence forced her to carry through an unwanted pregnancy. She lost the case because the ruling judge, Justice Newman, decided she was claiming the “loss of an opportunity to perform an illegal act”. Following various appeals and counter-appeals, which also involved the Catholic Church and the Abortion Providers Federation, the case was eventually settled out of court.

This incident serves to remind us that despite abortion being more accessible following the Levine ruling, the fact that it remains on the criminal code means that women can still be penalised.

There are only a few metropolitan hospitals, all in Sydney, that perform the operation in NSW. This number changes depending on whether medical and nursing staff refuse to perform abortions.

With the funding cuts to health services across the board, abortions performed

Myth: If you don't want the child, give it up for adoption

This is some anti-abortion groups' alternative to abortion. As if bearing a child and giving it up was as simple as giving an extra pair of shoes to the needy. This is a callous endorsement of women as “breeders” first and foremost and of babies as commodities. It is no solution to the tragedy of those who are unwillingly childless.

Women should have the right to choose to bring the pregnancy to term if they want, and give the child up for adoption. But the anti-choice lobby want to make that the only alternative for women.

From the point of view of the welfare and rights of women, adoption cannot be a substitute to the right to abortion. Abortion is a method of birth control; adoption is not.

in hospitals are the first services to go. This doesn't take into account the health risks women face with a waiting list because the timing of an abortion is so crucial. The later an abortion is performed, the greater the likelihood of danger to the woman's health from complications.

Even given this limited hospital access, women have been harassed by Right to Life for having abortions. One particularly shocking example involved a member of the staff at Westmead public hospital getting access to the names and addresses of women who had abortions, and sending out "happy anniversary" cards on behalf of the foetus.

Outside the hospital system, there are free-standing private clinics run on a for-profit basis. Doctors can make a lot of money, charging from \$150 to \$1500. Women have no choice but to pay as these clinics are the only places where second-trimester abortions are performed.

There is only one feminist free-standing clinic in the whole of Australia, the Bessie Smythe Foundation (Powell Street clinic) in NSW. It is not operating to capacity, despite at times being inundated with requests for abortions, because of the difficulties attracting trained doctors.

This is not a minor or local problem affecting only suburban Sydney women. This clinic is also used by rural women who have to travel a long way and spend money on transport and accommodation on top of the cost of the abortion. It is also used by interstate women who rely on NSW services — women from SA and an estimated 1500-3000 women who travel from Canberra annually.

A big part of this problem is that there aren't enough doctors who are prepared to perform abortions. The right-wing has succeeded in stigmatising and denigrating the abortion procedure from what it really is, an essential health service for women. This provides some justification for conservative opinion among doctors and nurses.

Currently, abortion is considered an elective and not a compulsory part of medical training so important advances in technique are not being passed on to many health professionals. There is also no formal training of counsellors and no funding to provide this most essential service.

An indication of the callous attitude of some medical and nursing staff came to light in 1993 when a couple went to the press following their harrowing treatment at a Sydney hospital.

The woman went through a four-day ordeal to have her abortion. She entered hospital on the Friday and the abortion procedure began, but when the resident doctor went off duty his replacement refused to continue to administer the

necessary drugs because he “didn’t believe in abortion”.

That night, members of the nursing staff castigated her about her abortion. The woman’s gynaecologist found out that the abortion had been stopped for reasons of “conscience” on the Saturday, without the necessary legal notification by the hospital, but he suffered a car accident that day, and thus couldn’t continue the termination. The woman finally had her abortion on the Monday. Afterwards, she had to wait four hours to be washed, despite repeated requests to staff.

Add to this the constant harassment by Right to Life of sympathetic pro-women doctors, and it’s obvious the situation is deteriorating.

These cases, as well as that against the WA doctors, highlight the fact that as long as decisions about the “lawfulness” of abortion rest with judges and decisions about “suitability” of termination rest with doctors, and not the woman concerned, access remains at risk.

ABORTION RIGHTS IN THE US

It’s useful for pro-choice campaigners in Australia to understand what has been happening in the United States and how access to abortion has been eroded there. Right-wing forces have been very successful over the past two decades, although women mobilised against these attacks in a serious, united, national political campaign in the early 1990s.

In 1973, women won the constitutional right to have legal abortions with the *Roe vs Wade* Supreme Court ruling. This decision established the right of privacy for a woman to make personal decisions about matters which fundamentally concern her within specified time limits and conditions. Yet 25 years later, *Roe vs Wade* is much constrained after numerous challenges and amendments.

This about-face didn’t happen with one fell swoop but through a series of gradual limitations to abortion access. It took a while for the women’s movement to regroup in the wake of this offensive by the well-financed anti-abortion lobby. The main trigger for the pro-choice forces to regroup was to mount a defence of abortion clinics, then under physical attack. In the last decade, millions have mobilised in protest.

The first major congressional challenge to abortion was the Hyde Amendment in 1977. This prohibited government funding of abortion through the medical insurance system, Medicaid, making it very difficult for women on low incomes to afford abortions.

There was token opposition to this attack as abortion was still technically legal, but just more difficult to access.

Since then, after numerous court cases, a string of restrictions have made abortion even further out of reach to most women including: late trimester abortions; forcing women to wait 24 hours; and requiring parental approval.

In 1989, the US Supreme Court ruled that the states had the right to legislate on abortion where public funding was involved. This ruling, known as the Webster decision, meant that women in most need — the poor, the racially oppressed minorities and the unemployed — could be denied their constitutional right to choose abortion. It was this ruling that allowed 45 states to restrict abortion access in an authoritarian and draconian manner making *Roe vs Wade* as a federal law virtually redundant.

A court ruling in June 1992, the Casey decision, has allowed some of the limitations of the Pennsylvanian laws to be federally applicable, approving a list of restrictions which include requiring unmarried teenage women to get consent from their parents or a judge and a 24-hour waiting period between seeing a doctor and requesting an abortion. This means that a woman must visit a doctor who is legally bound to advise her against abortion and show pictures of foetal development to dissuade her. After that she has to go away to “think about it”, and come back later to apply to have an abortion.

The Casey decision also mandates doctors to keep detailed records of each abortion. This is designed to intimidate both doctors and women with the threat of public disclosure and embarrassment.

Pennsylvania has also introduced another anti-abortion notion — that of viability. A doctor must examine a woman to assess the age of the foetus to see if it could survive outside the womb, for example in an incubator, limiting the length of the pregnancy when abortion can be obtained and reinforcing the notion that abortion is murder.

To give an understanding of the obstacle course that women are forced to

Myth: When abortion is legalised, the abortion rate will increase

Comparative research in Europe on abortion has shown that legalisation or liberalisation has not caused an increase in the incidence of abortion. The abortion rate is not dependent on legalisation per se but on other factors such as the availability of contraception and sex education. In several western European countries where legalisation was accompanied by a strong impetus on these factors, abortion figures started to decline.

endure to exercise their democratic right in the US:

1 Some 20 states do not provide public funding for abortion in any circumstance except to save the life of the woman.

1 Some 40 require parental consent for women under 18 years of age who want an abortion.

1 Under former president George Bush, some 4000 federally-funded family planning clinics were prevented from giving information to women about abortion. In fact, they were forced to recommend and advise women that, “This faculty does not consider abortion an appropriate method of family planning and therefore does not counsel or refer for abortion”. US President Bill Clinton has since overturned this gag ruling.

1 Rape and incest victims cannot have abortions in some states unless they report the crime within one week of the attack.

Over the last decade, more than 800 bills limiting abortion rights have been introduced into state legislatures. The state of Utah, in a demonstration of its “pro-life” credentials, proposed a law, thankfully defeated, which would have sentenced women to the death penalty for abortion.

In 1989, a court upheld the right of the state of Missouri to find that “the life of each human being begins at conception”, and to require that any woman who was more than 22 weeks’ pregnant submit to tests to determine the “viability” of the foetus.

Viability concerns impact on a doctor’s decision about the abortion procedure because states are empowered to require the doctor to use the abortion method most likely to result in foetal survival, if it does not pose a significantly greater risk to the woman. States can also require the attendance of a second doctor to take control of the foetus if it is alive.

The anti-abortion laws gave encouragement to Operation Rescue — a

Myth: Where contraceptives and sex education are available, abortion services will no longer be necessary

Even in countries such as Denmark, Sweden and the Netherlands, where contraceptives and sex education are widely available, abortion services remain necessary. Contraception is not fail-safe. Women in menopause who have not menstruated for a long time and think that they no longer need contraception, suddenly find themselves pregnant. Women who are raped and victims of incest are not always protected by contraception.

campaign of terror against abortion clinics carried out by fanatical right-wing forces. Clinics were subjected to arson and bombing attacks, staff faced constant harassment, and picket lines were established outside the clinics to prevent women from entering. In several instances doctors providing abortion were physically attacked, and in Florida in 1993, one doctor was shot dead.

Following a successful clinic defence campaign and legal suits by the pro-choice forces, Operation Rescue has been marginalised and faced prosecutions for clinic bombings and killings. Having outraged so many with its fanaticism, the anti-abortion lobby tried to argue that it had changed tack, even setting up an organisation called the National Coalition against Violence against Providers and Clinics, which runs a “pro-woman” but anti-abortion line.

There have been some very large demonstrations, with an estimated 1 million women marching on Washington in early 1992 under the banner “We won’t go back”, and in San Francisco a week before. And while President Clinton has a pro-choice position on paper, his election hasn’t led to major shifts in policy and access to abortion services on the ground.

Clinics provide more than two-thirds of all abortions, but due to the increasingly restrictive laws, the number of clinics dropped by some 18% between 1982-92. Fewer doctors are being trained in medical school. Few clinics provide second trimester abortions, and for poor women on Medicaid and Medicare their abortion is covered only in cases of rape or incest. Some private health insurance specifically excludes abortion from its coverage.

Abortion access is also limited as doctors become ever more fearful of the anti-abortion lobby’s intimidation campaign, and abortion providers are marginalised by hospitals. In an era of cut-backs, secular hospitals, which are increasingly being merged with Catholic hospitals, sign pre-merger agreements which prevent abortions from being carried out. In some states, such as California, medical boards have marginalised doctors who are prepared to carry out abortions.

Since the high point in 1992-93, the pro-choice movement is now relatively demobilised. The state-by-state attacks have prompted a state-by-state response, with the movement now more focused on lobbying and electing pro-choice Democrats than mobilising its support base.

A more promising opening in the longer-term may be the granting of the right to clinically trial the abortion pill RU486 in one state, after years of pressure by right-wing forces to ban even its entry as a personal item into the US. Similar clinical trials in some European countries and Canada have led to the release of

RU486 and opened up access to abortion choice at the family doctor level.

In Australia, the Howard-led government is continuing to restrict the importation of RU486. Following a 1996 amendment to the federal Therapeutic Goods Act by Right to Life sympathiser, independent MP Brian Harradine, all abortifacients are classed as a special group and can only be approved for importation by a panel of government-appointed scientists.

IT'S TIME TO ACT

In the context of the right-wing attacks on women's rights by state and federal governments and their media mouthpieces, these problems could well deteriorate while abortion is still governed by criminal law.

It would be a lot easier to campaign for funding, regulation under the relevant health acts, better training for doctors and funding for counselling services if abortion was treated like any other medical service. The current stigma attached to abortion would then gradually disappear.

Choice and women in the Third World

Access to birth control information, safe contraception methods and the provision of effective sex education are just a few of the most basic rights women in the Third World still do not have. In other words, they do not have the choice not to have children. The withdrawal of family planning funding from current aid projects (including by the Australian government) further entrenches these women's lack of rights.

Compulsory sterilisation and long-acting contraceptive drugs are imposed on Third World and minority women as part of governmental population control programs. In the late 1970s, R.T. Ravenholt, director of the US Office of Population, stated that the US was seeking to provide the means to sterilise a quarter of all Third World women, in part to protect the interests of US business abroad.

In 1952, Chase Manhattan Bank executive David Rockefeller commissioned a report for the then US president Eisenhower which concluded that a rise in the birth rate in poorer nations would create instability and endanger US access to important resources.

The same year the Population Centre was created with Rockefeller money with the specific purpose of reducing the birth rate in the Third World. By 1979, 35% of women of child-bearing age in the US colony of Puerto Rico had been sterilised, while in Brazil the figure in 1994 was 40%. In 1991, the United Nations Fund for Population Activities projected an 80% sterilisation

(Continued on facing page)

Right to Life have a lot of room to campaign because the laws on the books give them an enormous advantage. We need to turn this around. Repealing the laws would put us in a better position from which we could both extend our rights and defend them from attack.

But while many people agree in theory, or in principle, with the necessity of legalising abortion, many still question if this is the right time to launch a campaign for repeal.

During the 1980s, the opposition Queensland Labor Party, which has as its policy repeal of the law, led pro-choice feminists to believe that once in government, abortion law reform would be fast-tracked. Later, the Goss-led Labor government found excuses why the time wasn't yet right. Now, the National Party health minister Mike Horan is on record as saying that abortions happen "too often", and has made no secret of his campaign to make private abortion clinics "a thing of the past".

In the meantime, conservative Queensland independent MP Liz Cunningham has managed to add an even more reactionary twist to the laws covering abortion. In 1997, her amendment to the criminal code declaring that life starts

(Continued from facing page)

figure for both Panama and Puerto Rico "in the near future".

Similar racist programs have also been carried out on minority groups within "advanced" western nations. The disproportionate rate of sterilisation for black, Hispanic and poor working-class women in the US, and Aboriginal women in Australia confirm the extent of this crime.

These same targeted groups of women in the First and Third Worlds have been used as unwitting guinea pigs for the testing of birth control drugs like Depo Provera and other birth control devices.

In countries where the Catholic Church is dominant, especially those in the Third World, the situation is contradictory. Birth control measures are outlawed and abortion is an excommunicable offence as well as a crime, yet sterilisation campaigns continue apace.

In Colombia, for example, abortion is a criminal offence but sterilisation in US-funded clinics around the country is free. The Argentine Gynaecology and Obstetric Society estimates that "every two days a woman dies as a result of an illegal abortion" in that country. Harsh penalties limit doctors' involvement so that unwanted babies are often killed at birth.

In the west and in the former "socialist" countries in eastern Europe, new laws have restricted or outlawed women's rights to medically safe abortions.

at conception was passed by the Queensland parliament.

When is the right time for repeal? Is it best to wait until the situation gets better, or worse? How can the situation improve if we are not out there campaigning to make it happen?

Sitting on the sidelines waiting for “the right time” simply lets the right wing continue their anti-woman attacks. After all, they have the law on their side.

The anti-abortion forces are very actively campaigning to remove the limited access we already have won. The WA prosecutions will only spur them on. They are influential. They are backed by powerful institutions such as the Catholic Church. They have money. They reinforce the anti-women prejudices, inherent in this society, that the feminist movement has fought to drive back.

The Abortion Rights Coalition (NSW) documented some of the activities of anti-abortion groups in that state and how they have modelled themselves on similar groups in the United States. As the anti-abortionists won victories in the US the frequency of attacks in Australia increased.

ARC noted that while abortion clinics were established in the mid-1970s in Sydney, they were not targeted by such groups until late 1980 when the first picket of a clinic took place.

Since then one group has made a practice of harassment, screaming abuse through loud speakers at people visiting clinics, at staff and at residents and businesses in the immediate vicinity of clinics, as well as passers-by. One Sydney clinic has experienced an arson attempt, two episodes of paint bombing and had its front windows smashed.

The tactics of this group have come directly from the US. It has obtained obscene literature from the US and has adopted, as its manual, an American publication, *Closed: 99 Ways To Stop An Abortion*. This book encourages a whole range of activities — from campaigning against organisations like the Family Planning Association, to instruction on manipulating the media, to hiring detectives to “expose” an 11-year-old clinic patient.

Right to Life, while less aggressive tactically, is probably more influential with its use of emotional rhetoric and misleading information. It is very well organised and has long-term experience in how to lobby parliamentarians and the media. Some of its leaders are influential; for example, the president of Right to Life in NSW, Greg Smith, is a barrister and crown prosecutor.

The glossy brochures put out by Right to Life groups, complete with colour photographs of foetuses, is designed to appeal to emotions rather than reason.

These groups know that their religious, soul-based arguments about

when human life begins are not very convincing to those who don't hold those particular beliefs. They therefore try to cover up their lack of rational argumentation by using loaded language and deceptive pictures.

They also try to use pseudo-scientific statements about foetal development — including assertions about foetal heartbeats, brainwaves and motions of various kinds, even the motion of crying from pain. These methods are a total hoax. Their assertions have about as much “scientific” proof as those “scientists” who claimed that black people are inferior to caucasians.

An eight-week old foetus is about as big as an adult's thumb nail. Shown an actual photograph, no untrained adult would be able to distinguish it from a pig or rabbit foetus, since all mammalian foetuses develop in a similar manner. It cannot breathe and it absorbs oxygen and nutrients from its mother's blood.

It is scientific opinion that, although foetuses will react to stimuli the foetal brain is not developed enough to interpret such stimuli as pain.

And while a foetus develops a heart beat, circulatory system, and a brain that doesn't make it a human being.

While the anti-abortionists have the right to hold their fundamentalist beliefs and to make their own reproductive choices accordingly, they have *no right* to impose this religious or philosophical view on anyone else.

Right to Life has associated organisational fronts to carry out its activities — Foundation for Human Development, the Antioch youth movement, as well as special issues committees which work on foetal development kits, as well as an education committee; a legal committee; training committees to prepare public speakers; and an increasing focus on tertiary student organisations, as well as the Pregnancy Help Service through which they seek to divert and prevent women from having abortions.

One area where they have been particularly active is with the mentally and physically disabled, promoting the notion that such people are the target of abortion, playing on their vulnerabilities. This, of course, is an outright lie, as is the rest of their propaganda.

One of Right to Life's major tools has been a video titled *The Silent Scream* narrated by a medical practitioner, Dr. Bernard Nathanson, to provide extra legitimacy. The so-called facts in this video are mostly incorrect and can be easily refuted on scientific grounds, but its content is most disturbing (to all but medical and nursing students) and is aimed at an emotionally vulnerable and uninformed audience.

One unsuccessful attempt by Right to Life was to try, through the Freedom of

Information Act, to gain access to the names of all doctors performing abortions, the number of abortions they individually performed and the amount of money they received from Medicare for these procedures. This information was sought “in the public interest”.

Regardless of their attempted violations of medical privacy, Right to Life have consistently campaigned to have abortion removed from the Medicare rebate, claiming it is a waste of public monies and trying to tap the widespread public sentiment that doctors are overpaid, rip-off merchants.

In terms of public opinion, women’s right to choose has the numbers; they just need to be mobilised. That’s not to say winning repeal is going to be easy. It’s not, as the WA situation shows, simply a matter of putting up a bill in parliament and stopping there. Winning repeal is going to take a lot of collaborative planning to involve broad layers of people and groups to develop a campaign that can be run on a number of fronts. It’s going take a lot of time and effort, of reaching out into the community, consolidating public sentiment and transforming it into action.

This, after all, is the best way to exert pressure on all the vacillating, spineless politicians who won’t support women’s right to abortion, and sit on the fence by hiding behind the “conscience” cop-out vote.

The decision about whether or not to have an abortion is a personal one, but the right to do so is political. The right to decide must be guaranteed to *all* women. Winning a right is a public process, and with majority opinion on side, the only democratic solution to anachronistic anti-woman abortion laws is to get rid of them.

We can’t enter the 21st century with such a fundamental health issue for women *still* on the criminal statutes. The time to fight for the repeal of all abortion laws is now. Anything else would be irresponsible.

ABORTION: A QUESTION OF RIGHTS, NOT MORALS

By Lisa Macdonald

Applauded and promoted by the establishment media as a new, refreshing and sophisticated re-examination of the issue of abortion, Leslie Cannold's new book *The Abortion Myth: feminism, morality and the hard choices women make* offers a clear insight into the latest form that the ideological assault on women's right to control their reproductive lives is taking.

Cannold would immediately protest this statement. She does, as she states repeatedly in her book, support women's right to choose abortion. Whether she intends it or not, however, Cannold's stated pro-choice position is undermined at almost every turn by the reasoning she presents to argue that abortion "can be supported or opposed without resorting to rights-talk".

Cannold's argument builds on the writings of Linda Francke Bird (various sources since 1978) and Kathleen McDonnell's 1984 book *Not an Easy Choice: a feminist re-examines abortion*. In the place of women's right to choose abortion, she substitutes morality. "Women must have the right to choose", she says, "but with rights come responsibilities".

The "evidence" for her conclusions is drawn from the responses of 45 women — half of them pro-choice, the rest anti-choice — to detailed questions about the morality of the abortion decision.

"Honest talk has been in short supply on both sides of the line", she says. "The hypocrisy of the anti-choice side has been matched by pro-choice attempts to squash the moral ambiguity around abortion with deceptive language or by ignoring the foetus. Because the anti-choice movement has used feminist

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acknowledgment of the moral uncertainty of abortion as ‘proof’ that abortion is wrong, feminists have grown reluctant to make such admissions.”

Having asserted that “‘facts’ may be used to support either side of an argument”, Cannold argues that women’s moral uncertainty about abortion can be used to support it. On this basis, she advocates a new feminist perspective on abortion which includes thorough discussion of the moral aspects of abortion so that “an alternative defence of abortion can be structured” based on women’s personal experiences.

RIGHTS

Cannold asserts that the feminist case for abortion rights has failed to recognise that women don’t separate abortion from their complex feelings about and understanding of motherhood. Faced with an unplanned pregnancy, she says, women don’t think about “rights” — theirs or the supposed rights of the foetus. Rather, they think about what it means to be a mother and are aware of the overwhelming responsibilities of motherhood. She then tries to reduce the abortion decision to one about motherhood.

This is largely a truism. Of course women don’t separate the questions of abortion and motherhood; the decision to abort is first and foremost the decision, for whatever reason, not to become a mother (and vice versa).

But the decision is not *just* about motherhood. The right to decide to have an abortion is the right to decide not to give birth, but it is also the right to decide not to be pregnant any longer. That is, it is the right of a woman to control her reproductive life at *all* times.

Cannold disagrees. Abortion she says has “complex ethical, medical and social implications” which cannot be reduced to ideas such as women “owning” their bodies, or abortion as a routine health requirement.

She says that discussion about the feelings pregnant women have for their foetuses and the emotional content of their decisions about abortion has been repressed by the women’s movement’s focus on rights.

Abortion, she argues, is a moral question and if we acknowledge this and deal with it, life would be easier for those women who now find the decision to abort difficult and the pro-choice movement would win the “middle ground”: “It seems to me that what so many potential pro-choicers want to hear is a distinctly moral understanding of what abortion is and when it is — and is not — justified”.

On top of Cannold’s misrepresentation of the feminist movement’s approach

to the women's feelings about their pregnancy (it was the movement — not medical practitioners, priests or politicians — which insisted and fought for resources for pre- and post-abortion counsellors and supportive, “pro-woman” clinics), there are two fundamental flaws in this argument.

The first is that “rights” are no more or less than the codification of social conduct by the state. The state, backed by a police force, prohibits or allows certain actions. This impacts directly on women in so far as they cannot make the choice to have an abortion if the state prohibits it (i.e. if it is not a right).

The women Cannold interviewed did not, she points out, focus on the question of rights in relation to abortion. But that is largely because, for the moment at least, they can take this right for granted. If, however, women do not have the right to abortion (if it is illegal), the threat of prosecution and punishment, the danger to their health and the prohibitive financial cost of an illegal abortion will place the issue of rights back in the forefront of their concerns.

Cannold's refusal to argue first and foremost in terms of rights is, in the end, a refusal to engage in the work of influencing the state's position on abortion.

It was the similarly defensive, ambivalent and heavily qualified support for choice among large sections of the feminist movement in the United States over the last decade that has enabled huge gains for the anti-choice forces such that today, just 25 years after *Roe vs Wade* made abortion legal, only 131 of the 435 members of congress are pro-choice, as are only 33 of the 100 senators. According to the National Abortion Rights Action League, since 1995, the pro-choice group has won only 10 of the 81 votes on reproductive choice.

MORALITY

The second basic flaw in Cannold's analysis is that it is thoroughly individualised, but morality cannot be reduced to the individual. Every person's moral code is shaped by the social structures in which they live. An individual's historical context, country of residence, religion, ethnicity, class position, etc. largely determine their sense of right and wrong, including about abortion.

Individual women's decision to abort will be much more difficult and imbued with emotion in a society which invests the foetus with a moral content based on the notion that it is a human being. While this notion, based in religious/spiritual superstition, is about as scientifically sound as the virgin Mary's immaculate conception, it nevertheless still influences modern day law, politics and public opinion.

When the women's liberation movement was a stronger force (during

the 1970s and early '80s), its public campaigning and consciousness raising activities significantly countered the influence of the church and the far right. During those decades, public opinion, political parties' policies and the law shifted in favour of women's right to choose.

While abortion remained (and will always be) emotionally difficult for women who weren't sure that they didn't want to have a(nother) child, being able to have a safe, inexpensive, non-judgemental abortion was also an incredible relief for millions of women who were sure.

However, the last decade of conservative backlash against women's rights and the decline of the organised feminist movement have, according to long-term abortion clinic workers, produced a marked shift in women's reaction to abortion, from profound expressions of relief at receiving good health care (instead of a potentially deadly illegal abortion) to varying levels of guilt and anxiety.

Today in Australia, 10% of the women eligible to claim a Medicare rebate for an abortion do not do so — presumably because they don't want others to know they have had the operation. Cannold herself points out that support for choice is waning. In 1991, 81% of Australians favoured freedom of choice, but by 1996 this had dropped to 77%. A 1995 Morgan Gallup poll found that only 51% of 14 to 24-year-olds supported choice.

With more and more people expressing ambivalence if not outright opposition to women's right to choose, and with the formal right to abortion under concerted attack in almost every country in the world, Cannold's (and a growing number of other feminists') argument that the concept of rights is inadequate or no longer useful in the struggle to maintain and extend women's control over their reproductive lives is as reactionary as it is absurd.

THE FOETUS

Having defined abortion as a question of morals rather than rights, Cannold raises questions she says have “never been answered, and so rarely been asked ... Are there ‘irresponsible’ pregnancies? Which reasons for having an abortion are bad ones? Does the foetus matter, how much and why? Even if women have a right to choose abortion, is it always right for them to do so?”

These questions are accompanied by the straw women she constructs: those who intentionally become pregnant but have no intention of becoming a mother (such as female athletes who want to take professional advantage of the hormones that pregnancy releases and then abort).

The fact that these questions (which *were* answered years ago by the women's

movement) are being re-raised is a measure of the considerable ideological ground the anti-choice right wing has made in the last decade.

While Cannold says she asks these questions in an effort to “move beyond” the narrow ground of rights — which she says is defined as much by anti-choicers (foetal rights) as pro-choicers (women’s rights) — just by posing them she is capitulating to the most basic of the anti-choice assumptions: that human life begins at conception and there is no differentiation between a baby and a foetus.

She argues: “The language of rights, and the belief that the only wrong in abortion lies in denying a woman the freedom to have one, makes it difficult for them [feminists] to say why. The moral vacuum left by the pro-choice movement has not only been filled by the distorted images of fetuses promulgated by the anti-choice movement, and by the technological ‘solutions’ [the development of equipment to sustain human life outside the womb at an earlier and earlier stage] ... but by the inflexible moral language of absolute rights ... reclaiming the moral ground in the debate will require making space for the foetus [albeit recognising that] that space is always inside a woman.”

“Making space for the foetus” (whether inside or outside the woman’s body) is code for conceding to religious “morality” that removing a foetus from a woman’s body might be murder. According to this logic, unless you are then prepared to justify murder, the right of women to choose abortion is forfeited, regardless of what any individual woman believes.

Indeed, Cannold uses the language of murder to make her case. Her 45 interviews, she argues, “establish that women see abortion as a moral issue and their fetuses as highly valued could-be children”. On the basis of these interviews she argues that trust in the pregnant woman as a decision-maker is at the heart of abortion morality: the hope and expectation that “each woman’s abortion decision will be made thoughtfully, *sorrowfully* and with respect for the *sacredness* of pregnancy and with *love* for their could-be *child*. That women’s decisions will be, in other words, responsible ones to *kill from care*” (italics added).

Cannold covers herself against the logic of her argument by denying the connection between a moral assessment of individual women’s abortion decisions and believing that the law should punish those who don’t measure up morally.

However, to the extent that the law is (at least popularly perceived) as embodying and enforcing the moral values of a society, Cannold is on very

dangerous ground with this argument.

Her abstract argumentation to the contrary does not change the reality that the anti-choice project is *precisely* to have women's right to choose outlawed on the "moral" basis that a foetus is a "baby" and abortion is therefore "murder".

Cannold couldn't be more wrong when she says that "taking a position on the status of the foetus is not necessary to defend women's right to choose". She is also wrong that, "Whether a foetus is or is not a person is a question of *value*, not of fact."

What distinguishes a human being from all other life forms is that human beings have consciousness.

Consciousness is not injected by god at the point of conception, or at any other stage of foetal development. (Even the Vatican has not managed to maintain a consistent position on when this "miracle of life" is supposed to happen.)

Consciousness is a product of society, of human beings' existence in relation to others as part of a social system. That is, consciousness does not exist apart from society. It begins at birth and ends at death. There is absolutely no scientific evidence (just vague religious mythologies about souls, etc.) that the foetus is conscious.

A foetus becomes a human being when it is born and begins interacting with other human beings. That is when destroying it becomes murder. Until then, a foetus is simply a potential human being, a collection of living cells like any other organ in the body. The decision to have it removed is no different from any other operation to maintain or improve the quality of life of women.

Cannold's supposedly new questions have been answered before. A foetus is a foetus, not a human being. It has no rights separate from those of the woman carrying it. And without the ability to make an informed choice about whether or not to proceed with a pregnancy, women will not be free in any other sphere of life because they will be forced to take the ultimate responsibility for the child that is born.

All women must be able to exercise the *right* to abortion without qualification, guilt, apology, risk or hassle. For so long as that right is being questioned, defending it — on the streets, in parliaments, in communities, in the health system, and in public discussion — is of paramount importance for women's general health and well-being. If feminists don't defend and extend the ground we have already won, how any individual woman feels about the rightness or wrongness of having an abortion will be irrelevant because she will not have the choice.