
Volume 17

Issue 2 *New Writings in Feminist Studies:
Winning and Shortlisted Entries from the 2015
FWSA Student Essay Competition*

Article 2

February 2016

Reproducing the Homonormative Family: Neoliberalism, Queer Theory and Same-sex Reproductive Law

Eliza Garwood

Follow this and additional works at: <https://vc.bridgew.edu/jiws>



Part of the [Lesbian, Gay, Bisexual, and Transgender Studies Commons](#), and the [Women's Studies Commons](#)

Recommended Citation

Garwood, Eliza (2016). Reproducing the Homonormative Family: Neoliberalism, Queer Theory and Same-sex Reproductive Law. *Journal of International Women's Studies*, 17(2), 5-17.

Available at: <https://vc.bridgew.edu/jiws/vol17/iss2/2>

This item is available as part of Virtual Commons, the open-access institutional repository of Bridgewater State University, Bridgewater, Massachusetts.

This journal and its contents may be used for research, teaching, and private study purposes. Any substantial or systematic reproduction, re-distribution, re-selling, loan or sub-licensing, systematic supply, or distribution in any form to anyone is expressly forbidden. Authors share joint copyright with the JIWS. ©2022 Journal of International Women's Studies.

This journal and its contents may be used for research, teaching and private study purposes. Any substantial or systematic reproduction, re-distribution, re-selling, loan or sub-licensing, systematic supply or distribution in any form to anyone is expressly forbidden. ©2016 Journal of International Women's Studies.

Reproducing the Homonormative Family: Neoliberalism, Queer Theory and Same-sex Reproductive Law

By Eliza Garwood¹

Abstract

This paper seeks to highlight the often overlooked interconnectivity of the cultural sphere and the economic sphere, particularly focusing on same-sex reproductive law and neoliberalism. Using *The Human Fertilisation and Embryology Act 2008*, specifically highlighting its implications for same-sex couples, this examination demonstrates the way that policy and legislation frequently echo normative ways of being, encouraging the “good”, productive neoliberal citizen and/or family. This article is informed by Foucault’s notions of governmentality and biopower, problematising this limiting legislation, arguing that it is grounded on an internalised ideal of the traditional family, discouraging more transgressive or creative family formations. Specifically, I challenge the way that this legislation privileges marriage, the two parent model and bolsters the binary constructions of heterosexual/homosexual and male/female. Consequently, despite being celebrated as a victory for same-sex couples, *The Human Fertilisation and Embryology Act 2008* reaffirms the hierarchy of non-heterosexual identities, allowing only those who follow the hetero/homonormative ideal to legitimately access reproductive services.

Key words: Homonormativity, Governmentality, reproductive law

Introduction

Within this piece I aim to build on the growing collection of work that examines the connections between “cultural and economic value”, highlighting the intersecting nature of Queer Theory and Political Economy (Wesling, 2012, p. 107). I will do this by specifically focusing on *The Human Fertilisation and Embryology Act 2008* that legislates on assisted reproductive technology (ART), examining its implications for same-sex reproduction (Ibid). The word “family” is prevalent within our culture, alluding to a multiplicity of different “social, cultural, economic and symbolic meanings”, however conventionally understood as the “very foundation of society” (Weeks et al., 2001, p. 9). Despite arguments by many, including Minow (cited in Kurtz, 2003), that family now needs to be “redefined” by prioritising the “reality” of new and complex situations, current legal changes still seem to endorse traditional family formations, even when dealing with same-sex relationships that are often seen to “challenge ... heterocentric family forms” (Sheff, 2011, p. 489). Although there has been a great deal written on the homonormativity of equal marriage, same-sex reproductive law has received little attention. I will therefore be investigating the intersections of neoliberalism, LGBT rights, discourses of the family and ART

¹ Eliza Garwood has just completed a Masters of Research in Sexuality and Gender Studies at the University of Birmingham. Within her Masters she focused on LGBTQ populations and the LGBTQ family, specifically investigating intergenerational LGBTQ families for her MRes thesis. Her wider interests include Queer Theory, Foucauldian studies, Queer space and the intersection between public policy and personal life. She is keen to undertake a PhD in the future, with aspirations to develop a career in social research.

as a technology of biopower which operates to normalise identities, relationships and family structures.

This examination will firstly draw on Queer work that understands the interconnections between the economy, Queer Theory and heteronormativity. It will then go onto discuss the way that Foucault's concepts of governmentality and biopower can be useful in examining the way that power operates, with various techniques of surveillance, internalisation and regulation being discussed to highlight the ways that neoliberal and familial discourses have become constructed as "common sense" (Foster, 2011, p. 139). Following this, there will be an examination of the LGBT rights movement, discussing how this rights discourse assimilates certain LGBT identities into heteronormativity, producing the homonormative subject. I will then turn to look specifically at the homonormativity of *The Human Fertilisation and Embryology Act 2008*. Through an examination of Artificial Insemination and Surrogacy in relation to same-sex reproduction, I demonstrate the way that the law upholds a traditional model of how the family *ought* to be formed, particularly through its privileging of marriage/civil partnerships, the two parent model and binary constructions of both homosexual/heterosexual and male/female. I argue then that current same-sex reproductive laws are homonormative as they depend on neoliberal discourses of the "good" family, promoting marriage, monogamy, and personal responsibility, allowing only those who fulfil normative ideals to access reproductive rights.

Queer Theory and the economy

Queer Theory will be one of the primary tools used to interrogate *The Human Fertilisation and Embryology Act 2008* in relation to same-sex reproduction. Queer Theory, with roots in Poststructuralism, works to deconstruct the normative notions of and established binaries surrounding "male/female, masculine/feminine, heterosexual/homosexual", "real families/pseudo families" to name a few (Valocchi, 2005, p. 752; Kuvalanka and Goldberg, 2009, p. 905). The effort to dismantle these binaries and categorisations stems from the belief that they produce the "routine erasure of marginalised non-normative sexual identities and practices", while enhancing regulatory power relations within and between certain legible identity groups (Smith, 2015, p. 6). Queer here will be understood as verb rather than a noun, a way of "doing" rather than a way of "being" (Sullivan, 2003, p. 50). Therefore, taking the approach discussed by Cohen (cited in Sullivan, 2003, p. 49), Queer "recognises how numerous systems of oppression interact to regulate...the lives of most people". Queer is then used as a tool to deconstruct these "numerous systems of oppression", enabling an examination of the intertwined character of the economy, the state and the family (Cohen cited in Sullivan, 2003, p. 49).

Within her essay "Merely Cultural" Butler (1997) argues that Queer Theory, along with gender and sexuality issues generally, is seen as separate to matters of the economy. This has allowed the so-called feminine private sphere of "social reproduction" to be detached from the masculine public sphere of "political and economic power" (Smith, 2015, p. 5). Butler argues that this distinction is flawed, with gender and sexuality not only serving the "sexual division of labour" but also being intrinsically linked with the economically significant "reproduction of the normative family" (Butler, 1997, p. 272). Family policy in particular is hugely affected by economics, from issues such as the sexual division of labour, child care, marriage contracts, the reproduction of gender norms and neoliberal values, to newer challenges of ART and same-sex family law that are addressed here (Cigno, 1991). Therefore, understanding heteronormativity as a concept that is only

useful within the “cultural” realm, disregards the way that it is intertwined with the economic sphere (Smith, 2015, p. 8). Heteronormativity describes a system through which certain heterosexual practices are normalised and “privileged” through a continual repetition of particular, naturalised constructions of gender, sexuality and the family (Ibid). The normalising discourse of heteronormativity reinforces ideas of the socially acceptable subject and underpins current social exclusions. These distinctions not only have an effect on what some may term the cultural or the private, but are embodied in the “free-market rationalities of neoliberalism” (Ibid). Therefore, using Butler’s ideas of performativity, we can see the ways that the repetitive performance of gendered bodies, leading to social legibility, can be understood as a type of “necessary labour” which generates “both material and social” value (Wesling, 2012, p. 108).

Governmentality and Biopower

Queer Theory has evolved out of and adopted many Foucauldian ideas and perspectives around power, control and discipline (Green, 2010, p. 321). Foucault’s concepts of governmentality and biopower have been particularly influential to understand the way that power operates and disseminates in contemporary society. Power here is not simply implemented through sovereign control and the use of force, but is put into effect through a “multiplicity of discursive elements” dispersed through various spheres within society (Foucault, 1984, p. 100). These include the power of the “expert/professional”, “technologies... such as surveillance and the internalisation of regulation through the proliferation of ‘common sense’ discourses” (Foster, 2011, p. 139). Here government is understood in a broader sense than we frequently use it, moving beyond the traditional notion of the executive authority of the state, to discuss the “conduct of conduct” or in other words, the practices that aim to influence, guide and encourage behaviour in conjunction with a specific set of normative values (Foucault cited in Klesse, 2007, p. 573). As Foster (2011, p. 139) notes, within the term governmentality “we encounter the word mentality”, emphasising the way that discourses of government become internalised, enforcing a particular view of the world. It is through these internalised discourses that we ascertain “what is and what is not truth”, with these accepted truths becoming understood as “common sense” and therefore unquestionable (Bailey et al., 2002, p. 102; Foster, 2011, p. 137). The power of these internalised discourses is noteworthy as they inform the “regulation of social conduct”, conveying what are encouraged and sanctioned behaviours, beliefs and desires, as well as what is opposed, restricted and disapproved of (Hall, 2001, p. 75). Therefore, although institutional governing through law and policy is vital to interrogate, the power of these methods of control cannot be comprehended without examining the ways that internalisation of dominant discourses endorse law itself.

Biopower, a technique of governmentality, explains the move from sovereign power over death, to a control over the life of the population in terms of issues such as “birth, health, sex and mortality” (Mamo, 2007, p. 10). This can particularly be seen in the way that “technologies” control bodies to guarantee that they follow particular norms concerning matters such as “reproduction and parental care”, with the aim of reproducing workers and the productive family (Deveaux, 1994, p. 229). Sexuality is then vital to control, in order to ensure the preservation of population, “bodily behaviours and [correct] reproductive capacities” within neoliberal society (Repo, 2013). Consequently, biopower can be seen as enabling of and interlinked with “capitalist economic systems”, as it works to implant “bodies into the machinery of capitalist economies” (Foster, 2011, p. 144). Furthermore, biopower does not only involve state action, but like

governmentality, is embodied within internalised heteronormative ideals regarding family, citizenship and gender (Barker, 2012, p. 581). Therefore, we should understand current developing “freedoms and choices” enabled by changes in law, policy and technology such as reproductive law, as shaped “*within* power relations” rather than counter to them (Mamo, 2007, p. 10). Foucault’s notions of governmentality and biopower are then useful for analysing the governing of reproductive rights, containing a “series of controls over life which are legitimised, monitored and internalised by subjects” while being authorised through neo-liberal discourses and gender/sex normativities (Foster, 2011, p. 139).

Neoliberalism and the family

Within an examination of the economy, I must acknowledge the importance of neoliberalism, which has been directing the politics and markets of the West since the 1980s. Neoliberalism is frequently understood through its focus on the free market, globalisation, privatisation, personal responsibility and productivity (Winnubst, 2012, p. 80). However, both the economy and neoliberalism should not be taken as a “pregiven, material reality” but rather as a discursive construction (Bergeron and Puri, 2012, p. 491). For example, neoliberalism is commonly portrayed “as a kind of nonpolitics”, a set of common sense ideals, method of rationality and way of encouraging unanimously advantageous forms of “economic expansion and democratic government” worldwide (Duggan, 2002, p. 177). Consequently, a view of the market as the “saviour” of all trials and tribulations, both “personal and political”, has become ingrained and internalised (Marzullo, 2011, p. 761). Therefore, within the era of neoliberalism it becomes the state’s responsibility not to “rein in the market” but to function according to the apparent “truth” of the market (Winnubst, 2012, p. 82). Arguably, this can be seen in the fact that neoliberalism is now a central component in all domestic, as well as international, policy initiatives (Gill and Scharff, 2011, p. 6). Furthermore, it is not only state policy that is affected by neoliberalism but, as Duggan (cited in Weiss, 2008, p. 89) has argued “the culture of neoliberalism” has reshaped “citizenship”, now comprising of “consumption, rights and family values”. The task of the government here is then to support “self-governing subjects” to develop into “responsible citizens” who willingly conform to the norms and requirements of the state (Richardson, 2005, p. 516). The construction and internalisation of this discourse then makes this form of neo-liberal governmentality difficult to refute.

It is not only state policy, but also state rhetoric that enforces certain dominant familial discourses, impacting upon family structure and practices. Smith (2015, p. 20- 22) claims that currently “constructions of economic crisis” are being connected to “constructions of social decline” by the coalition government, with “family trouble” being labelled as its “root cause”. However, it is not just at times of crisis that certain types of families get targeted for economic reasons; throughout the decades of both Left and Right wing parties, families have been at the centre of political rhetoric. For instance, both Ronald Regan and Margaret Thatcher claimed that the “breakdown of family values” led to a rise in crime, unemployment and was a drain on society (Douglas, 1990, p. 413), while Gordon Brown used the terms “chaotic and dysfunctional families” and David Cameron prefers the rhetoric of “problem families” and the “broken value system” (Jensen, 2012, p. 5; Ben-Galim cited in Bennhold, 2011). This type of language indicates the way the “relationship” between the state and families is “increasingly politicised”, with “good” families and “good” parenting being understood as those who prioritise the personal responsibility and

economic independence of the family from the state, as well as parenting that focuses on providing “positive” role models and outcomes for children (Jensen, 2012, p. 2). This “good family” discourse consequently leads to a creation of a binary “other” with the construction of the deficient “bad family”. These are families who are claimed to have “chosen to remain at the bottom of society” by being single parents, unemployed or economically dependent on the state (Ibid). This discourse conceals the structural reasons for the continuation of inequality within society, such as enduring gender and racial discrimination, badly paid jobs, unequal education and highly-priced childcare (McMurria, 2008, p. 307). Therefore, political discourse can be understood as an important method of neo-liberal governmentality and biopower, strengthening notions of “correct” family practices, disciplining the body and enhancing certain neoliberal policy initiatives.

Homonormativity

Having discussed the connections between the family and economics more generally, I will now turn my attention to the LGBT family in particular. The mainstream LGBT movement, for the last few decades, has enacted a rights based discourse, often described as identity politics (Richardson, 2005, p. 515). This form of resistance has increased the rights of LGBT people substantially, from the passing of anti-discrimination laws, reproductive rights and the recent legalisation of same-sex marriage in the UK in 2013 (BBC, 2013a). However, many have argued that this type of strategy leads to assimilationist tendencies, which aim to integrate LGBT people into mainstream, heteronormative society, “ultimately re-entrench[ing] interlocking systems of normative sexuality and gender” (Vitulli, 2010, p. 156). These ideas have been taken up by many scholars, including Duggan (2002), who argue that this type of identity politics leads to the “extension of heteronormative privilege to... normative gay [men] and lesbians”; this has come to be known as “homonormativity” (Vitilli, 2010, p. 156). Homonormativity then describes the normalisation and “hierarchisation” of certain forms of homosexuality over others, particularly privileging (but not limited to) the gay or lesbian, cisgender, middle-class, white, western, able-bodied, monogamous, family oriented, married couple (Browne, 2006, p. 886; Vitulli, 2010, p. 157). Duggan (2002, p. 179), the founder of the term, describes homonormativity as the “sexual politics of neoliberalism” and claims that it promises a “depoliticised gay culture anchored in domesticity and consumption”. The transformation of lesbians and gay men from the “other” into economically participating citizens whose difference is played down in an effort to integrate, demonstrates how homonormativity enables the decreasing of the “risk” previously feared, by creating the “ordinary” lesbian and gay subject (Richardson, 2005, p. 522). This does not suggest that all LGBT people are homonormative, however it recognises the limiting expectations that come with an individualised rights based politics of tolerance and recognition.

Following the discussion of homonormativity, we can see that heteronormativity can be “consistent” with the fight for lesbian and gay “civil rights” (Danby, 2007, p. 32). This is particularly relevant when discussing rights in terms of neoliberalism: a “highly flexible system” which can allow for a variety of policies that can be constructed in a way that increases “privatisation, supports markets and demands personal responsibility” (McRuer, 2012, p. 2). Changes in law and policy in relation to issues such as gender, sexuality and family do not necessarily mean a breakdown of neoliberal hetero/homonormativity, rather indicate the way that a range of different policies can be useful for neoliberalism in differing circumstances (McRuer, 2012, p. 2). For example, a wide range of scholars have pointed out how the recent emphasis and

passing of same-sex marriage in the UK, and across the world, has not in fact altered the neoliberal familial norm but rather reinforces existing binaries with the creation of the homonormative, assimilated, respectable same-sex couple (Smith, 2015; Kopelson, 2002; Brandzel, 2005; Brown, 2009). Same-sex marriage then highlights the ways that family law can be changed without disrupting neoliberal logic of the stable, personally responsible, economically and socially productive couple. David Cameron stated that he believes marriage “is a great institution and ... it should be available to gay people” (BBC, 2013b). This quote indicates the way that same-sex marriages are expected to fit into a traditional notion of the institution. Smith (2015, p. 19) then argues that it is “through the lens of heteronormativity that equal marriage becomes intelligible”. This legalisation then generates “at one stroke, both the favoured and the objected group identities”, increasing the marginalisation of those who live in non-normative ways (Danby, 2007, p. 45).

Same-sex reproductive law

The language of “discrimination” both inside and outside of the academy in relation to the LGBT population continues to play on these ideas of rights and identity politics (Danby, 2007, p. 42). This often means that the state is understood to be the “solution” to something that is carried out by individuals or companies (Ibid). This risks overlooking the ways that state policies and laws themselves implement and “police familial norms” (Danby, 2007, p. 44). I will interrogate the ways that the state has done this through *The Human Fertilisation and Embryology Act 2008*. Discussions of ART often focus on its implication for the notions of traditional procreation, though fail to link these to wider issues of the neoliberal state and economy. Consequently, in light of the previous discussion I aim to acknowledge the way that ART is not only a part of the “cultural” sphere of the family but embedded within neoliberal norms (Butler, 1997). I will be using critical discourse analysis to understand the ways that the collection of language, statements and connotations that construct legal discourses are able to “not only reflect but also reinforce” wider exclusions (Hafez, 2000, p. 505). Within this act I will be largely concentrating on the sections that legislate on Artificial Insemination (IUI), the main method of reproduction of female same-sex partners, and Surrogacy, a common option for “male same-sex couples who wish to have a child together without sharing responsibility with the child’s mother/s” (Robertson, 2004, p. 324; Stonewall, 2015).

One of the main changes of *The Human Fertilisation and Embryology Act 2008* is that it enables both women in a civil partnership to be recorded as legal parents from their child’s birth, whether conceived at home or in a fertility clinic (Section 42). This in part also applies to lesbian couples who are not civil partnered, however these couples must conceive through a licenced fertility clinic (Section 43). Legal parenthood is inextricably intertwined with the economics and neoliberal discourses of personal responsibility, with the status of legal parenthood affecting issues such as “nationality, inheritance and financial responsibility” (Human fertilisation and Embryology Authority, 2014). This change in law may seem like a progressive move in same-sex reproductive legislation, making it much easier for lesbian couples to legally parent together. However, when interrogating this “gay-friendly” move through a Queer lens, problems begin to arise. Firstly, legislation is built on a prioritisation of marriage and civil partnerships over other types of relationships. We can observe a hierarchisation within reproductive law that allows freedom to some and forces medical “surveillance” on others, indicating the enduring dominance

of the married couple (Deveaux, 1994, p. 229). Marriage is a central component of neoliberal society, as Marzullo (2011, p. 763) boldly argues, “when we look into the ‘glass’... to search for what our culture tells us should be marriage..., what we find is a reflection of the market”. Within a neoliberal era of individualisation, marriage offers a form of protection, encouraging responsibility and self-sufficiency which is paradoxically always dictated by the state through both policy and normalising rhetoric (Marzullo, 2011, p. 766). Marriage can be seen as a long standing technique of neo-liberal governmentality, with the “cult of individualism” continuing to “naturalise” the enduring inequality and stratification, marginalising and erasing those who do not conform or are not economically able (Marzullo, 2011, p. 768). Therefore, the upholding of the privileged position of marriage within same-sex reproductive law continues to serve a homonormative discourse of monogamous, committed relationships as the ideal within neoliberal society, to the complete disregard of polygamous, trans, and other non-normative family formations. Furthermore, the failure to conform to the marriage ideal leads to the enforcement of direct medical “surveillance”; a concept seen in Foucault’s theory of biopower, closely associated with neoliberal forms of governance ensuring economic utility (Richardson, 2005, p. 518). Surveillance, in line with biopower, can be “considered as a political technology for population management” regulating certain behaviours over others (Ceyhan, 2012, p. 40). This aspect of *The Human Fertilisation and Embryology Act 2008* can therefore be seen as a form of “natal Panopticonism”, with the enforcement of medical authority and “parental surveillance” over certain forms of reproduction and parenting (Terry cited in Deveaux, 1994, p. 229). Accordingly, this not only encourages the internalisation of neoliberal parental norms, but it directly polices the legal requirements stated in *The Human Fertilisation and Embryology Act 2008*. Moreover, this requirement to use fertility clinics that have been set up to deal with heterosexual infertility, implement a heteronormative understanding of fertility onto more complex reproductive issues, where ART becomes the so called “natural” way for same-sex couples to conceive (Nordqvist, 2008, p. 287). This demonstrates the way that legislation surrounding same-sex and non-normative families have simply been “added” to the existing model of heterosexual procreation, with fertility clinics continuing to function under the discourse of heterosexual infertility (Ibid).

Although ART, for some, indicates the “splintering” of the reproductive process, complicating the “natural” biological process and meaning that one child can now be born with five parents rather than two, the legislating of such processes seems to have assimilated this into traditional family models (Goslinga-Roy, 2000, p. 113). The importance of sustaining a two parent model is unceasing within reproductive law; legally it is impossible to name more than two people on a birth certificate, therefore if two women are to legally parent then the child is unable to have a legal father, let alone fourth or fifth parents. This then discourages the formation of more complex co-parenting relationships, always prioritising one couple over the other. Furthermore, not only does this limiting legislation restrict co-parenting options, it also erases non-normative relationships, such as polyamorous relationships. Polyamorous relationships continue to be viewed as “unstable” and always accompanied by jealousy, which will apparently inevitably lead to their decline, while the “children...pay the price” (Kurtz, 2003, p. 3). This stereotypical view of polygamous families is only fostered by its invisibility both within society and within law (Sheff, 2011, p. 509). Likewise, surrogacy laws make it impossible for a single person to apply for a parental order, further indicating the privilege of the couple, and demonstrating the continued neoliberal concern regarding single parents and welfare “dependency” (Macleod and Durrheim,

2002, p. 50). Therefore, anything other than the model of two-parent monogamy is erased or at least limited under *The Human Fertilisation and Embryology Act 2008*.

These divisions between so called “good” and “bad” enactments of non-heterosexual identities mean that legal changes that follow hetero/homonormative boundaries limit who can legitimately access services and their needs be understood by these service providers (Vitulli, 2010, p. 157). Butler’s discussions of schemes of recognition and legibility are useful in understanding these binary constructions, demonstrating how subjects are obliged to satisfy certain norms in order to gain “recognition” (Butler, 2009, p. 4). Certain sexualities and relationships, such as polyamory, then become “[un]intelligible and [un]speakable”, with arguments surrounding “who and what” can be encompassed within this norm (Butler, 2002, p. 18). State discussions of “correct” and “incorrect” family formations, examined previously, (re)entrench the legibility of certain family practices and structures, praising certain “responsible citizen[s]” who reproduce dominant gender norms and family values, while condemning or erasing non-normative others (Richardson, 2005, p. 516). Within this situation then, Warner (cited in Butler, 2002, p. 26) asks: should we authorise these practices that limit and exclude certain sexualities outside the dominant norms due to our desire to be “recognisable” and gain state legitimacy?

This state legitimacy for same-sex parents, however, is removed if conception happens through intercourse rather than through ART, with heterosexual intercourse leading to the biologically related mother and father being considered the legal parents. Furthermore, it continues to use gendered concepts, with motherhood being identified through gestation and fatherhood through either genetics and/or relationship to the mother (section 33; 35-41). This indicates the maintenance of the heterosexual/homosexual and male/female binary within this legislation, dismissing any fluidity as unimaginable. For example, as McCandless (2014) examines, trans reproductive relationships become complex under these laws, with it now being possible for a legally recognised man to give birth, it is not clear whether he would be treated as the father or the mother. Therefore, although this legislation may be argued to offer progressive solutions to shifting family forms in the context of the LGBT rights movement, it actually (re)entrenches traditional notions of heteronormative primacy, placing a constant divide between gay, lesbian and heterosexual identities, along with assuming the constancy of the categories male and female.

However, as Foucault and Queer theory importantly acknowledge, dominant discourses are not a totalising force, but a complex negotiation, in this case, of medical, economic, state authority and individual agency. Therefore, restrictions placed by this homonormative legislation are not all-encompassing, as individuals are able to resist and reshape their lives around them (Mamo, 2007, p. 12). In their frequently cited piece, Weeks et al. (2001, p. 10; 48) argue that LGBT and non-heterosexual people are creating new types of non-normative families, which they describe as “families of choice” that can be made up of a combination of “lovers, possibly ex-lovers, intimate friends, as well as blood relatives” and children (Weeks et al, 2001: 48). He describes this family as a “challenge to conventional definitions, and an attempt to broaden these” (Weeks, 2001, p. 11). Others like Stacey (1996; 2004) agree with the argument that LGBT people offer a new and creative way of constructing the family. Stacey (2004, p. 194) claims that even something like “sexual cruising”, which many see as a danger to the family, can actually be viewed as a “creative model of family travel”. Furthermore, Dempsey’s study demonstrates the way that through the use of ART, LGBT families are able to weave complex kinship networks and family structures in new and innovative ways to support the raising of children. However, Dempsey’s (2010, p. 1159) findings also indicate the continuing relevance of the traditional normative family,

noting that “friendship” was not always enough to sustain a strong and enduring parental relationship with a third or fourth parent. These “additional” parents were often demoted to the position of family friend; a “person of lesser social and emotional status” (ibid). This highlights the fact that the legal demotion of third or fourth parents, often sperm donors and their partners, frequently leads to the limiting of family structure down to a more standardised two parent model. Therefore, despite the fact that these dominant discourses can be resisted, the power internalised through dominant homonormative discourse can never be fully escaped, as even resistant behaviours are always informed by current power dynamics (Mamo, 2007, p. 12). Consequently, although I do not challenge these arguments suggesting that LGBT families embody the critical potential to disrupt the way the family is conceptualised, I would argue that these studies ignore the ways that new legal changes impact upon the choices, structures and legibility of LGBT families currently, and with legal changes conforming to the homonormative, neoliberal vision of the productive family.

Finally, although the arguments made within this piece have a similar reasoning with the abundance that has been written about gay marriage, in my view reproductive law, although intertwined with marriage discourse, brings something distinct. Despite being two very different issues, I would like to consider this in relation to Spade’s (2006) personal examination of sex reassignment surgery. Spade (2006, p. 332) discusses how there is a “criteria” set by the medical authority that “produces and reifies... [a] normal healthy gender”. Through doing this it enforces an adherence to this discourse of “normal” gender experience to enable surgery to take place. Spade (2006, p. 331) considers how others suggested they change their stories, change their lives, accept what they previously didn’t and “lie and cheat their way through... to occupy the bodies in the way they want”. For me, this has some resonance with the legal challenges that come with same-sex reproduction. As previously stated, ART has the potential to bring about non-normative families that shape their lives in new ways, breaking traditional gender/sex and familial dominant discourses. However, in line with sex reassignment surgery, these new opportunities have been legislated in line with normative common sense, assumptions regarding gender identity, sexuality and family structure. Therefore, in conjunction with Spade’s (2006) argument, in order to have a child, non-normative families are obliged to alter desires and existence to match neo-liberal, state-sanctioned familial formations. Therefore, the imposition of neo-liberal governmentality through *The Human Fertilisation and Embryology Act 2008* discourages transgressions, flexibility and fluidity that are beginning to be documented within same-sex familial narratives, using various techniques of surveillance, biopower and political discourse to reinforce the “acceptable” ways of living.

Conclusion

Although this law could be interrogated further, this examination indicates the fact that *The Human Fertilisation and Embryology Act 2008* bolsters engrained notions regarding what family “should look like” (McCandless, 2014). Through an examination of the interconnections between cultural and economic spheres, we can see how same-sex reproductive rights are embedded in a neoliberal discourse. This legislation, like many forms of homonormativity, assimilates the complex relationships that arise out of ART into traditional understandings of the neoliberal family. Through powerful techniques of governmentality and biopower, these new types of families, including same-sex families, are not comprehended on their own terms, but brought into

the heteronormative model of family, privileging marriage, the two parent model and reinforcing binary constructions of male/female and homosexual/heterosexual. Furthermore, those who do not conform to these ideals, such as single parents, trans, polygamous or other non-normative sexualities, become stigmatised or unintelligible. Therefore, rather than being an unquestioned victory for LGBT rights, the UK's reproductive laws draw on limiting narratives, restricting who can be recognised as successful, productive, legal families.

This study of the homonormativity of *The Human Fertility and Embryology Act 2008* highlights the need for its further analysis. In particular, there needs to be a fuller interrogation into the way that this legislation impacts upon the ideas and decisions made by same-sex and non-normative people/ partners before and during conception, pregnancy and birth of a child. Power is not all-encompassing and leaves the possibility for resistance; it would therefore be interesting to examine whether reproductive legislation alters and influences choices, self-presentation and family formation.

References

- Bailey, N. et al. (2002). "The Baby Brigade": Teenage Mothers and Sexuality. *Journal of the Association for Research on Mothering*, 4(1), 101-110.
- Barker, D. K. (2012). Querying the Paradox of Caring Labor. *Rethinking Marxism: A Journal of Economics*, 24(4), 574-591.
- BBC. (2013a). Same-sex Marriage Becomes Law in England and Wales. Retrieved from <http://www.bbc.co.uk/news/uk-politics-23338279>
- BBC. (2013b). David Cameron denies gay marriage policy regret. Retrieved from <http://www.bbc.co.uk/news/uk-politics-24323593>
- Bennhold, K. (2011). Single Mothers Become Scapegoats in Britain. *The New York Times*. Retrieved from http://www.nytimes.com/2011/09/28/world/europe/28iht-letter28.html?_r=0
- Bergeron, S. and Puri, J. (2012). Sexuality between State and Class: An Introduction. *Rethinking Marxism*, 24(4), 491- 498.
- Brandzel, A. (2005). Queering Citizenship? Same-Sex Marriage and the State. *GLQ: A Journal of Lesbian and Gay Studies*, 11(2), 171-204.
- Brown, G. (2009). Thinking beyond homonormativity: performative explorations of diverse gay economies. *Environment and Planning*, 41(6), 1496-1510.
- Browne, K. (2006). Challenging Queer Geographies. *Antipode*, 38(5), 885-893.
- Butler, J. (1997). Merely Cultural. *Social Text*, 52/53, 265-277.
- Butler, J. (2002). Is Kinship Always Already Heterosexual? *Differences: A Journal of Feminist Cultural Studies*, 13(15), 14-44.
- Ceyhan, A. (2012). Surveillance as biopower. In K. Ball et al. (Eds), *Routledge Handbook of Surveillance Studies*. Oxon: Routledge.
- Cigno, A. (1991). *Economics of the Family*. Oxford: Clarendon Press.
- Danby, C. (2007). Political economy and the closet: heteronormativity in feminist economics. *Feminist Economics*, 13(20), 29-53.
- Dempsey, D. (2010). Conceiving and Negotiating Reproductive Relationships: Lesbians and Gay Men Forming Families with Children. *Sociology*, 44(6), 1145–1162.
- Deveaux, M. (1994). Feminism and Empowerment: A Critical Reading of Foucault. *Feminist Studies*, 20(2), 223-247.
- Douglas, G. (1990). Family Law under the Thatcher Government. *Journal of Law and Society*, 17(4), 411-426.
- Duggan, L. (2002). The new homonormativity: The sexual politics of neoliberalism. In R. Castronovo & D. Nelson (Eds.), *Materializing Democracy*. Durham, NC: Duke University Press.
- Foster, E. A. (2011). Sustainable Development: Problematizing Normative Constructions of Gender within Global Environmental Governmentality. *Globalizations*, 8(2), 135-149.
- Foucault, M. (1984). *The History of Sexuality, Vol 1: An Introduction*. London: Penguin.
- Foucault, M. (1991). Governmentality. In G. Burchell et al. (Eds.), *The Foucault Effect: Studies in Governmentality*. Chicago: University of Chicago Press.
- Gill, R. and Scharff, C. (2011). Introduction. In R. Gill and C. Scharff (Eds.) *New Femininities: Postfeminism, Neoliberalism and Subjectivity*. Hampshire: Palgrave MacMillan.

- Goslinga-Roy, G. M. (2000). Body Boundaries, fiction of the female self: an ethnographic perspective on power, feminism, and the reproductive technologies. *Feminist Studies*, 26(1), 133-140.
- Green, A. I. (2010). Remembering Foucault: Queer Theory and Disciplinary Power. *Sexualities*, 13(3), 316-337.
- Hafez, O. (2000). The language and politics of exclusion: Others in discourse: Stephen Harold Riggins ed., Thousand Oaks, CA: Sage, 1997. *Journal of Pragmatics*, 32(4), 505-511.
- Hall, S. (2001). Foucault: Power, Knowledge and discourse. In M. Wetherell, *Discourse Theory and Practice*. Sage: London.
- Human Fertilisation and Embryology Authority (2014). Surrogacy and Legal Parenthood. Retrieved from <http://www.hfea.gov.uk/7940.html#further1>
- Human Fertilisation of Embryology Act of 2008 (c.22). Retrieved from <http://www.legislation.gov.uk/ukpga/2008/22/contents>
- Jensen, T. (2012). Tough Love in Tough Times. *Studies in the Maternal*, 4(2), 1-26.
- Klesse, C. (2007). "How to be a Happy Homosexual?!" Non-monogamy and Governmentality in Relationship Manuals for Gay Men in the 1980s and 1990s. *The Sociological Review*, 55 (3), 571-591.
- Kopelson, K. (2002). Dis/Integrating the Gay/Queer Binary: "Reconstructed Identity Politics" for a Performative Pedagogy. *College English, Special Issue: Lesbian and Gay Studies/Queer Pedagogies*, 65(1), 17-35.
- Kurtz, S. (2003). Beyond Gay Marriage: The Road to Polyamory. *The Weekly Standard*, 8(45).
- Kuvalanka, K. A. and Goldberg, A. E. (2009). Second Generation Voices: Queer Youth with Lesbian/Bisexual Mothers. *J Youth Adolescents*, 38(9), 904-919.
- Macleod, C. and Durrheim, K. (2002). Foucauldian Feminism: the implications of Governmentality. *Journal for the Theory of Social Behaviour*, 32(1), 41-60.
- Mamo, L. (2007). *Queering Reproduction: Achieving Pregnancy in the Age of Technoscience*. USA: Duke University Press.
- Marzullo, M. (2011). Through a Glass, Darkly: U.S. Marriage Discourse and Neoliberalism. *Journal of Homosexuality*, 58(6-7), 758-774.
- McCandless, J. (2014). Transgender parenting and the law: we must be creative with legislation to cater for parents who do not fit neatly with the traditional family model. Retrieved from <http://blogs.lse.ac.uk/politicsandpolicy/parenthood-laws-family>
- McMurria, J. (2008). Desperate Citizens and Good Samaritans Neoliberalism and Makeover Reality TV. *Television and New Media*, 9(4), 305-332.
- McRuer, R. (2012). Crippling Queer Politics, or the Dangers of Neoliberalism. *S&F Online*, 10 Retrieved from <http://sfonline.barnard.edu/a-new-queer-agenda/crippingqueer-politics-or-the-dangers-of-neoliberalism/>
- Nordqvist, P. (2008). Feminist heterosexual imaginaries of reproduction: Lesbian conception in feminist studies of reproductive technologies. *Feminist Theory*, 9(3), 273-292.
- Repo, J. (2013). The Life Function: The Biopolitics of Sexuality and Race Revisited. *Theory & Event*, 16(3).
- Richardson, D. (2005). Desiring Sameness? The Rise of a Neoliberal Politics of Normalisation. *Antipode*, 37(3), 515-535.
- Robertson, J. A. (2004). Gay and Lesbian Access to Assisted Reproductive Technology. *Case Western Reserve Law Review*, 55, 323-372.

- Sheff, E. (2011). Polyamorous Families, Same-sex marriage, and the Slippery Slope. *Journal of Contemporary Ethnography*, 40(5), 487-520.
- Smith, N. (2015). Towards a Queer Political Economy of Crisis. In J. True and A. Hozic (Eds.), *Scandalous Economics: The Spectre of Gender After Global Financial Crisis*, New York: Oxford University Press. Also available at https://www.academia.edu/9151827/Towards_a_queer_political_economy_of_crisis 15
- Spade, D. (2006). Mutilating Gender. In S. Stryker & S. Whittle (Eds), *The Transgender Studies Reader*. London: Routledge.
- Stacey, J. (1996). *In the Name of the Family: Rethinking Family Values in the Post-modern Age*. Boston, MA: Beacon Press.
- Stacey, J. (2004). Cruising to Familyland: Gay Hypergamy and Rainbow Kinship. *Current Sociology*, 52(2), 181–97.
- Stonewall (2015) What is Surrogacy. *Stonewall*. Retrieved from <http://www.stonewall.org/help-advice/parenting-rights/surrogacy-1>
- Sullivan, N. (2003). Queer: A Question of Being or a Question of Doing? In *A Critical Introduction to Queer Theory*. Edinburgh: Edinburgh University Press.
- Valocchi, S. (2005). Not Yet Queer Enough: The Lessons of Queer Theory for the Sociology of Gender and Sexuality. *Gender and Society*, 19(6), 750-770.
- Vitulli, E. (2010). A Defining Moment in Civil Rights History? The Employment Non-Discrimination Act, Trans-Inclusion, and Homonormativity. *Sexuality Research and Social Policy*, 7, 155-167.
- Weeks, J. et al. (2001). *Same Sex Intimacies: Families of Choice and Other Life Experiments*. London: Routledge.
- Weiss, M. (2008). Gay Shame and BDSM Pride: Neoliberalism, Privacy, and Sexual Politics. *Radical History Review*, 100, 87-101.
- Wesling, M. (2012). Queer Value. *GLQ: A Journal of Lesbian and Gay Studies*, 18(1), 107-125.
- Winnubst, S. (2012). The Queer Thing about Neoliberal Pleasure: A Foucauldian Warning. *Foucault Studies*, 14, 79-97.