

Gender and New Reproductive Technologies in Slovenia

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Abstract

The main topic of this paper is the availability of assisted fertilization technologies (AI, IVF etc.) in Slovenia. The paper focuses on the rule of law, which permits the use of these technologies only for women from heterosexual couples, which means that it discriminates against all other women, who do not have the right to use the technologies under the law (single heterosexual women, disabled women and homosexual women). This paper discusses the emergence of single women as a gender with specific properties, which would “justify” the legal limitations of access to artificial insemination. The gender of single women is a construct of political and public discourse, constructed by the Slovenian media in the time before the referendum on the bio-medically assisted procreation, when the law on infertility treatment and bio-medically assisted procreation procedures and the amendments to this law were being shaped. This paper also analyses gender roles, talking about women - mothers, patriarchal political authorities and society, the right of choice, and the body as a field of political discourse. Finally, it includes critical analysis of political and public discourse.

Keywords

Reproductive technologies, the law, gender, single women, politics, society

Introduction

New reproductive technologies¹ that help cure infertility are changing the image of the human reproduction and redefining people’s relations towards sexuality, gender, parenting, family and children. We live in a time in which sex without reproduction is tolerated and reproduction without sexual contact is possible and socially acceptable in most Western countries. Human reproduction is a very broad concept which encompasses social practices, experiences and structures that have an impact on individuals, the community and social reproduction. Social reproduction is associated with kinship systems and it does not represent only biological reproduction but also reproduction of social statuses, institutions and relations. Across the globe, different cultures have different attitudes towards the new reproductive technologies. When speaking about the reproductive revolution, John A. Robertson considers four aspects: (1) contraception and abortion; (2) treating infertility; (3) controlling the quality of offspring; and

¹ NRTs include various methods and medications that can help men and women to prevent pregnancy (for example: oral contraceptives, diaphragms, condoms, vaccinations, etc.) as well as techniques that help women conceive (assisted reproduction). Assisted reproductive technologies (ARTs) or bio-medically assisted procreation procedures (BMAPPs) that are allowed in Slovenia are presented in the Law on infertility treatment and bio-medically assisted procreation procedures. This paper focuses particularly on the BMAPPs.

(4) using reproductive capacity for nonreproductive ends (1994: 6). Each of these technologies presents its own variation and requires separate scrutiny. This paper highlights and discusses treatment of infertility.

In Slovenian society, the nuclear family is the most common form of family. Usually, it is composed of both (heterosexual) parents and the child or children. The parents tend to be both biological and social parents. This type of family is the most socially acceptable form of family and symbolises the essence of a stable social order (Skušek 1996: 135). However, these deep-rooted social rules for family were challenged in the 1980s by advanced medical technology. Louise Brown, born on 25 July 1978, was the first human to have been born after conception by *in vitro* fertilisation (IVF). Her birth has been described as the beginning of a new era in the treatment of infertility (Simon 1997: 11). Fertilization outside the body (i.e., IVF) and embryo transfer (ET) give also infertile women the possibility to conceive and to give birth. Otherwise, their only alternative would be an adoption of a child (Virant - Klun 2002: 99). The development of NRTs has had an important impact on the relations between the sexes, on the definitions of parenthood, motherhood, progeny, heredity, on relation to the body, etc. Also, the state apparatus of the so-called modern era had to redefine certain concepts, such as paternity, maternity, succession and inheritance. These developments also gave rise to questions regarding bio-genetic and social parenthood as well as discussions on the dichotomy between nature and culture. The decision on whether to have children or not could be no longer dependent on the actual biological ability to have children, but on the individual's will and technical science.

People all over the world have different reactions to the phenomenon of ARTs and their opinions on the matter tends to reflect their perception of tradition, modernity, the natural, the artificial, body and motherhood. Fourteen years ago, Slovenia has proved that it is not yet ready for the rapid development of the NRTs. It has, among other things, demonstrated its intolerance towards different families and that all women do not have equal rights before the law. Zalka Drglin (2002: 96–97) wrote:

The problematisation of the law presents a recognition of individual curtailment of rights of concrete women, but also a wider deliberation about 'woman - mother'. Similarly, a few years ago the possibility of the right to abortion becoming more stringently restricted did not present only a threat to already obtained rights for individuals – it was possible to understand it as an important indicator of the fragility of women's rights and as a problem regarding different conceptions of 'women' in general. The essential point that is common to the right to abortion and the right to assistance in the biomedical insemination is the right of every woman to

decide about her own body (and thus also about her way of life, her own no-procreation, her own pleasure, taking responsibility for her decisions, etc.).

This paper explores the impact of NRTs on the shaping of the meaning of gender and sexuality. It reviews the Slovenian law on infertility treatment and bio-medically assisted procreation procedures, the attempt to change the law and the referendum. The main question that this paper addresses is why certain healthy and fertile women have the right to assisted fertilization procedures and others do not.² To help answer this question, an analysis of the 5th and the 7th session of the national assembly of the Republic of Slovenia has been carried out. We have analysed the arguments of the members of parliament (MPs), who were against the amendment of the law, and how they rejected the principle of equality before the law, which is one of the fundamental constitutional rights. The paper presents arguments on why this law is discriminatory and restrictive and describes the social construction of the single woman gender.

Slovenian law on Infertility Treatment

The law on infertility treatment and bio-medically assisted procreation procedures in Official Gazette of the Republic of Slovenia, n. 70/00 was adopted in 2000 and is still valid. It “regulates health measures that help a woman and a man conceive a child and therefore enables them to exercise the freedom of choice in deciding on the birth of their children” (Article 1)³. The infertility treatment is separated from the bio-medically assisted procreation procedures (BMAPPs). Treatment is “the determination of the causes for infertility or reduced fertility and eliminating these causes with professional counselling, medications or surgical interventions” (Article 3). BMAPPs are “procedures for inseminating a woman, which are performed with the help of bio-medical science with the intention of conceiving in a manner other than sexual intercourse” (Article 4). BMAPPs can take place inside the woman’s body (a transfer of sperm or sperm and eggs) and outside the woman’s body (IVF, ET) (Article 4). Under this law, only heterosexual couples – a man and a woman, who live in a marital or extramarital union – are entitled to BMAPPs⁴ (Article 5). Surrogate motherhood is prohibited (Article 7) as well as the donation of male and female gametes simultaneously (Article 8), so the donation of embryos is not allowed (Article 13). Maternity and paternity for the children, who are conceived by

² This paper specifically focuses on single women.

³ Law on Infertility Treatment and Bio-Medically Assisted Procreation Procedures, Official Gazette of the Republic of Slovenia, n. 70/00.

⁴ The conditions for extramarital union are given in its definition: longer period, a man and a woman, no reasons suggesting the invalidity of a marriage (provided that it was concluded). Therefore, under marriage regulations, extramarital union is equal to marriage as concerns the rights and obligations of partners.

BMAPPs, are governed by Article 41 and Article 42. The mother of the child is always the woman, who gave birth to the child, even though the child was conceived with the donor egg. The father is always the mother's husband or partner, even though the child was conceived by the donor sperm. In both cases, testing the biological maternity and paternity is not allowed. In exceptional health conditions, the child will have access to important health data of the donor (Zupančič et al. 2000: 496). The woman can receive only one donor cell, which means that at least one of the parents must be a biological parent. This enables the preservation of a biological connection between parents and children (Zaviršek 2008: 107). The law therefore preserves genetic inheritance and similarity between relatives.

Restrictive Provisions of the Law⁵

The existing law is discriminatory because it does not treat all women equally. It prohibits the use of BMAP procedures for women who do not live in a legal marital or extramarital union - these are namely single women and women in homosexual relationships. Article 55 of the Constitution of the Republic of Slovenia specifies that everyone is free to decide whether to bear children. The state has to guarantee the possibilities for exercising this freedom and create conditions, which enable parents to decide whether to bear children. The basic human right to decide freely and responsibly on the birth of one's own children means that a person is free to decide whether to have children, when and how many. The rights that stem from this freedom are the right to discover and treat reduced fertility or infertility, the right to prevent conception, and the right to artificial abortion for women. Article 14 of the Constitution also specifies that all citizens of Slovenia are guaranteed equal human rights and fundamental freedoms irrespective of national origin, race, sex, language, religion, political or other convictions, material standing, birth, education, social status, disability or any other personal circumstances. All are equal before the law.⁶ The law is restrictive; certain provisions even prevent its implementation. Among other things, it stipulates that fertilization with simultaneous use of donated male and female gametes is not allowed. This provision prevents access to BMAPPs for couples, where both partners are infertile. In this case, male and female gametes are selected from the gamete bank and are used for fertilization outside the woman's body (IVF) or inside the body (intrauterine insemination - IUI). The Slovenian legislators want to ensure that the procedure of assisted reproduction guarantees that the child is a genetic

⁵Law on Infertility Treatment and Bio-Medically Assisted Procreation Procedures, Official Gazette of the Republic of Slovenia, n. 70/00.

⁶ The Constitution of the Republic of Slovenia, Official Gazette of the Republic of Slovenia, no. 33/91-I, 42/97, 66/2000, 24/03, 69/04, 68/06, and 47/13 (<http://www.us-rs.si/en/about-the-court/legal-basis/constitution/>)

offspring of at least one of the individuals of the couple that is being treated (Mickovik and Kochkovska 2013: 11).

The law also introduced a mandatory permission of the State Commission for BMAP for each individual donor process. Such an arrangement means that the Commission should meet for each individual donor case and approve it (or not). Another restrictive provision stipulates that the medical doctor shall verify whether the donor is still alive before transferring donor gametes or embryo in the woman's body⁷. In the case of donor gametes from abroad, it is almost impossible to verify if the donor is alive in that moment. With this provision the import of donor gametes is practically prevented.

An Attempt to Change the Law

In the fall of 2000, a group of MPs and members of the political party LDS filed a proposal to amend the law on infertility treatment and bio-medically assisted procreation procedures, which was discussed by the National Assembly in the spring of 2001. Thus, women's rights have once again become the subject of debates among party members and the public. Although the potential changes would affect a small group of citizens⁸, discussions have been tumultuous. Proposed amendments to the law were considered at the 5th session of the National Assembly, which took place on 18 and 19 April 2001. Supporters of the amendments have insisted on the right to equal treatment for all women. An MP of the political party, ZLSD, explained that denying single fertile women the right to assisted fertilization is pretended ignorance since this same right is acknowledged and guaranteed for a married fertile woman, who only has to solve the infertility of her partner. "Where is the respected autonomy and the equality of a woman? If the woman is single, she does not have these rights. As soon as a man steps in the picture, she has these rights guaranteed" (transcript of session of the National Assembly, 5th session, 18 April 2001)⁹. At the time of the adoption of the law on infertility treatment and bio-medically assisted procreation procedures and the attempts to change the law, which led to a referendum. Two political currents were thus formed. Each tried to assert its

⁷ As in nature, conception by a dead person is not possible, (conscious) posthumous use of gametes is not allowed (Zupančič et al. 2000: 496). It is forbidden to conduct BMAP procedures with gametes or with early embryos in the woman's body when the donor is no longer alive. Before inserting the gametes of the donor or the early embryo that was created with the help of donated gametes, the doctor must determine whether the donor is still alive. See: Article 28 of Law on Infertility Treatment and Bio-Medically Assisted Procreation Procedures, Official Gazette of the Republic of Slovenia, n. 70/00

⁸ The right to medical assistance in the treatment of infertility had all women from year 1977 until year 2000. In the past twenty years there were at least fifty single women who were artificially fertilised. According to the Institute of public health of the Republic of Slovenia in year 1998 of one hundred and twenty nine reported cases, only eighteen were artificially fertilised (www.dz-rs.si, 5th session, 18 April 2001).

⁹ Transcript of session of the National Assembly, 5th session, 18 April 2001, www.dz-rs.si

position with more or less ideological and cogent arguments. Two politically oriented models were formed with different points of view and arguments:

The (neo)conservative model

This model defends the concept of a traditional nuclear family, and covers some of the views of the Roman Catholic Church. NRTs are allowed only in treating the opposite-sex couple and if they don't break biological family ties. This model focuses primarily on the future child and stands for the health and benefits of the child. It is based on tradition and the natural order of family ties.

Conditionally liberal model

This model supports the plurality of family forms, equality before the law and does not interfere with the intimate and private sphere of life. It does, however, demand a strict control over the NRTs and defends human rights. It stands in favour of the 'liberated' modern woman.

Political parties of the opposition presented the arguments of the (neo)conservative model. These parties were SDS (Slovenian Democratic Party), NSi (New Slovenia - Christian People's Party), SNS (Slovenian National Party), and SMS (Youth Party). Political party SLS-SKD (Slovenian People's Party-Slovenian Christian Democrats) was a member of the coalition in power but it nevertheless opposed to the amendments of the law. The coalition in power that presented the arguments of conditionally liberal model was composed of the following parties: LDS (Liberal Democracy of Slovenia), ZLSD (United List of Social Democrats), and DeSUS (Democratic Party of Pensioners of Slovenia). It turned out, however, that both political factions used the same stereotypes and similar ideological restrictions in the parliamentary debate as well as in the public debate. Answering the question whether the new, amended law would also allow homosexual women the use of assisted fertilization, an MP of LDS party stated in an interview that the State Commission for BMAP will also check sexual orientation of candidates. He added that the mechanisms of control will probably not allow the use of BMAP procedures to homosexual women (Newspaper *Večer*, 9 May 2001, p. 5). Another example is the statement of the Health Minister, which he responded with the idea that the amended law will destroy the healthy family in our society. He explained that the family is not to be jeopardized, that it will continue to exist in its current form because heterosexual relationships will continue to exist, as well as (heterosexual) love and all things related. "The amendments do not concern the family; they refer to the minority, in which people did not create

a family" (LDS Party, 7th session, 3 May 2001)¹⁰. With these words, the Minister defined family as a union of heterosexual relations.

Arguments against Changing the Law

Arguments of the opponents of the amendments have frequently crossed the limits of tolerance. Certain statements of MPs have indicated, among others, that single women and women without a male partner are not fit to be mothers, that they are stupid because they do not know how to find a man and that they are exploitative as the assisted fertilization (of healthy women as well) would be charged to the State budget. Other statements of certain MPs were discriminatory against people, who do not fit in the frame of traditional social norms. Such statements included arguments regarding different types of families and lifestyles. The concept of a 'complete, healthy family' was frequently brought up and the statements conveyed fear that adopting the amendments could increase the possibility of interfering with other laws concerning childcare and family in the future.¹¹ In a way, the MPs were trying to preserve the legitimised discrimination by gender, sexuality and lifestyle with their ideological statements. Let us look at some of the statements of the MPs that support my argument.

I believe that each individual has to carry at least so much responsibility for the selection of a lifestyle as to accept all the consequences that the selected lifestyle entails. Living with a same-sex partner or being single doesn't bring offspring (MP, SMS party, 5th session, 18 April 2001)¹².

This amending law is the first step towards the recognition of adoption rights for homosexual partners. This is not the European norm. The European norm is a healthy family. In the Slovenian National Party we believe in a child, conceived by a woman and a man. /.../ And what is more, a child is not a psychiatrist, therefore the frustrated specimens should not take a 'child a la carte' as their therapy (MP, SNS party, 5th session, 18 April 2001)¹³.

Opponents of the amendments defined family as a heterosexual couple with children. According to them, this model of family, a marital- or extramarital union, should represent the ideal form for raising a child and consequently the entire society. In other cases, a child would only represent an object. The 'imperfect' family was defined as a single parent family. The concept of a nuclear, heterosexual and patriarchal family reflects an arrangement of gender roles and sexual roles that allow new centres of power which promote the ideology of national identity and the nation state, to coincide clearly and without disturbance (Velikonja 1999: 149).

¹⁰ Transcript of session of the National Assembly, 7th session, 3 May 2001, www.dz-rs.si

¹¹ Adoption of children by same-sex couples.

¹² Transcript of session of the National Assembly, 5th session, 18 April 2001, www.dz-rs.si

¹³ *Ibid.*

I think that for a healthy development of our society we cannot continue with the abandonment of the family as the basic cell of society, as we were taught at school in the old days. It is important for our nation and country to support the family, whether the partners are married or not (MP, NSi party, 5th session, 18 April 2001)¹⁴.

It is a fact that we have a growing number of single parent families. However, I ask myself why the state should contribute to the growth of incomplete, imperfect single parent families with its own laws. /.../ A child becomes an instrument for achieving a particular goal. It becomes an object, used for the treatment of personal trauma or any kind of aversions (MP, NSi party, 5th session, 18 April 2001)¹⁵.

MPs, who were against the amendments, defended the rights of the child. In their statements, they indicated the child's right to both parents and the legal equality of all children. They mentioned the United Nations Convention of the Rights of the Child to argue that a child has a right to know their (biological) parents who should take care of them.¹⁶ They went as far as to put the rights of an unborn or even a not yet conceived child (the abstract concept of a child) before the rights of an adult woman to decide about her own body. In Slovenia, the right to decide on one's own body surpasses the right of a fetus since abortion is legal. Nevertheless, we must understand that the discourse, led by the MPs, was about the rights of children, even children that did not exist and that the MPs did not want them to exist. However, single women do exist and they demand the same rights as women in opposite-sex relationships. In a democratic society all women should have equal rights.

Another argument of the opponents of the bio-medically assisted procreation procedures for single women and consequently of single parents was that on average, women have a lower economic status than men.

If we're speaking about a complete and perfect family with a mother and a father, then it's clear that the economic position of the family is twice better. If the father is missing, the situation is 50 % worse (MP, NSi party, 5th session, 19 April 2001)¹⁷.

Other important issue in public discourse was also the import of gametes. The fear of mixing races was exposed with the support of racist arguments. The import of gametes was considered controversial mainly due to racial

¹⁴ Transcript of session of the National Assembly, 5th session, 18 April 2001, www.dz-rs.si

¹⁵ Ibid.

¹⁶ Convention of the Rights of the Child, 2 September 1990.

¹⁷ Transcript of session of the National Assembly, 5th session, 19 April 2001, www.dz-rs.si

connotations. Many people, including MPs and medical doctors, did not avoid such and similar comments:

It has been said that the donors will be mostly from abroad. This can lead to exotic outcomes; we will have Asians and blacks. What about the condemnation of the child in the environment where this child will be born and the frustration of the child when he/she will learn how he/she was conceived? (MP, SLS-SKD party, 5th session, 19 April 2001)¹⁸

Although the opposition was strongly against the amendments to the law, the amending Act on infertility treatment and bio-medically assisted procreation procedures has been fully adopted in the 5th session on 19 April 2001.

Referendum

The amending Act had a strong opposition in the members of the Faculty of Theology in Ljubljana University. One of their students launched a campaign for the referendum. All the political parties that opposed the amendments (SDS, Nsi, SNS, SMS in SLS-SKD)¹⁹ joined him and filed a request for a referendum.

The collection of signatures for the referendum was, so to speak, aggressive because voters in all administrative units across the country were offered to fill out forms with the inscription: 'against biomedical insemination of healthy women without a male partner'. We know, however, that the amending act didn't just cover access to BMAPPs for single healthy women, but it also regulated many other rights, which were forced into the background. The focus was thus on the single woman and her 'controversial' right to medically assisted procreation procedures, which was persecuted all over Slovenia.

The referendum was held on 17 June 2001. Only a small percentage of voters took part in the referendum that day (35.66%) with 72.36% of them against the amending Act.²⁰The amending Act was thus rejected. Since then, the legalised discrimination enabled by the law on infertility treatment and bio-medically assisted procreation procedures, is no longer a political question. This discriminatory legislative provision is thus slowly but certainly becoming self-evident and legitimate (Mencin Čeplak 2005: 121). At first glance, it may seem that the referendum question did in fact concern

¹⁸ Transcript of session of the National Assembly, 5th session, 19 April 2001, www.dz-rs.si

¹⁹ See p. 4-5

²⁰ The official reports on the outcome of referendum on the amending act on infertility treatment and bio-medically assisted procreation procedures (www.uradni-list.si)

only single women but this impression is wrong. It concerned Article 55 of the Constitution and it concerned the right of choice.

The Construction of the Single Woman Gender

At the time of the adoption of the amending Act on infertility treatment and bio-medically assisted procreation procedures a single woman gender has been constructed. This chapter discusses specific properties that supposedly justify the legal inaccessibility to artificial insemination. The concept of gender was first introduced by psychologists in the 1930s (Oakley 1997) but it was not until after the publication of Oakley's *Sex, Gender and Society* in 1972 that it became more widely used in social sciences (ibid.: 34). Since then, the gender concept formed the core of feminist ideology and was their 'essential political tool' (ibid.: 51). The term gender, as it is used in the theory of feminism, is a complex and controversial concept. It is best understood as a category, which was developed for the exploration of what is considered to be a 'woman' and a 'man'. Toril Moi (1997: 247) has written:

Among many feminists it has long been established that 'feminine' (and 'masculine') are used as social constructs (patterns of sexuality and behaviour, imposed by cultural and social norms), and that 'female' and 'male' are expressions, reserved for the purely biological aspects of sexual differences. Thus in this usage 'feminine' represents nurture and 'female' represents nature. 'Femininity' is a cultural construct: one isn't born a woman; one becomes one, as Simone de Beauvoir puts it.

Therefore, we ask ourselves, what is the social gender of single women in our context? To answer this question, we must highlight the role of a woman in Slovenian society. Social roles are based on a gender model that identifies women with motherhood and men with fatherhood. In the age of new reproductive technologies, however, concepts like kinship, paternity or parental roles are not natural givens but are subject to choice. Slovenia has a strong Christian tradition and the idea of motherhood is shaped by the Catholic theology. In the contemporary Slovenian society, the woman is still subjected to Catholic values. Primarily, her role is to be a 'good wife' and mother. The man has the social role of a husband and a father in the family. With the pluralisation of family types, where the 'father' is not present (single mothers, lesbian families), a question arises as to whether families need fathers and what the role of the father is. This is extremely important for the overall discourse on the amending Act and for the referendum. It has been traditionally believed that the perfect family environment for a child is a heterosexual union, with at least one genetic parent. Single households are believed to be imperfect and they should not be propagandised. In this context, a single woman is not fit to be a mother because she does not have a husband at her side.

People are embedded in kinship systems that denote institutionalised heteronormativity. Family constructs the identity of its members (Oakley 2000: 79). When a person is defined as a member of a family, he/she is automatically given a social identity: man-husband-father, woman-wife-mother-housewife and child-son/daughter (ibid.). Every culture has different ways of establishing gender, with different norms for masculinity and femininity. Gender roles that are associated with the traditional family do not clash only with public ideals of equal rights and resources, but also with the liberal understanding of the conditions and the values of the private life (Kymlicka 2005: 559).

As we already mentioned above, politicians, who were against amending the law, described single women (and women without a male partner) as unfit to be mothers, stupid, because they do not know how to find a man, and exploitative since the assisted fertilization of women, including healthy women, would be charged to the State budget. In the backgrounds of the political and public scene, there was always a presence of heteronormativity. One good example of this is a proposition on how to measure infertility. Trying to determine how to define whether a woman is fertile or not, medical science proposed the method of sexual intercourse. Sexual intercourse is a form of a social relationship and it is still believed that sexual needs are fulfilled only in a heterosexual relation. According to the law on infertility treatment and BMAPPs, every woman has a right to infertility treatment, but how can we ascertain infertility when it comes to single women? It is assumed that a single woman does not have sexual intercourses; therefore it is not possible to ascertain her infertility (Keržan 2004: 51). Of course, a single woman can have regular sexual intercourses, hetero- or homosexual, but - and this is the heart of the matter - these are sexual relations that do not fall into the category of acceptable sexuality (ibid.: 52). Sex is a biological need and biological needs are satisfied in a cultural manner. A dichotomy between natural and controlled reproduction is not possible; all the so called natural biological reproduction takes place in specific social, political and economic contexts, which construct it (Yuval-Davis 1997: 26). It is not possible to practice sexuality outside the social standards. We can also say that sexual intercourse is a form of a social relationship.

Heterosexuality is deeply embedded in accounts of social and political participation. It is the basis of the institution of marriage and thus also the popular understanding of what constitutes a family (Collier 1999: 39). In our case, heterosexuality was not recognised and problematised. The themes that permeated the public discussion in the Slovenian parliament and media were the ideology of family as a place to raise children, different types of family, and the ethically problematic right of single, lesbian and disabled women to assisted fertilisation procedures. However, the heterosexual norm, as a way of

life was not highlighted. The broader heterosexual framework of family law and social policy in Slovenia thus remains unspoken and is taken for granted (ibid.). That, which is taken for granted and is self-evident, becomes the only 'true' way of life and everything else becomes 'controversial'.

The single woman in our discourse is also having difficulties with respectability. One of the highlights of the creation of identity markers is the development of European nationalisms from the 18th century onwards (Velikonja 1999: 137). The essential role in this development belonged to the rules of social decency²¹, which are nowadays considered self-evident and perceived as moral norms, criteria of decency and conventional standards of behaviour. The ideals of femininity in European history were constructed on the basis of the symbols of nation (ibid.). We can interpret that the woman is responsible for the survival of her nation. However, only the decent, respected woman, corresponding to the social norms, because she is also responsible for the preservation of the national social decency. The fact that only a woman, who is in a relationship with a man, is entitled to BMAP procedures, is a national norm and the interest of the nation state.

An analysis of the discourse on single women has shown that the social status of being single is stigmatized. The arguments of MPs presented single women as sick, because they successfully run their own life; they were depicted as in need of psychiatric help, because they choose to have a child instead of a man. Single status of women is thus seen as a consequence of the fact that they have not yet found someone to integrate them in a relationship, which would lead to a family. Modern, 'partially' emancipated women in Slovenian society can today only be subordinated through the reproductive technologies. This could be one reason why the debates about the rights of single women to BMAPPs were so tumultuous. As women emancipate themselves, they also take up new roles, which change the roles of men. Nowadays a male, who aspires to be a man, does not need to protect, procreate and provide.²² In Western countries male social roles are no longer exclusively male and female social roles are no longer exclusively female. This means we are getting more and more equal in practice as well.

Body and New Reproductive Technologies

The primary 'object' of reproductive technologies is a woman and her body. A man merely has to provide sperm through masturbation while the woman faces major intrusions into her body. Because there are inevitable inequalities in the distribution of reproductive burdens, the woman (and her body) is subordinated to the reproductive technologies, which are in the

²¹ See also George L. Mosse, *Nationalism and sexuality*.

²² Three common imperatives of a man by anthropologist David D. Gilmore

hands of the medicine. Since medicine is perceived as a male domain, the NRTs can be understood as a patriarchal tool. In the framework of NRTs, a female body becomes a field of powerful political discourses. Sedlenieks wrote in his paper that the attitude of feminism towards new reproductive technologies has changed significantly through the years. In the early 1970s, feminists argued that the technologies would take the burden of motherhood away from women and therefore contribute to their liberation. Later, however, they criticised such an approach and insisted that the new reproductive technologies would only lead to further oppression of women (Sedlenieks 1999). New reproductive technologies are creating even greater gender inequalities, where the role of a woman is limited merely to her reproduction ability. The medicalisation of pregnancy and childbirth took away women's control over reproduction. Birth has become dependent on doctors and the medical profession. In the feminist discourse, the medical profession is perceived as a domain of the masculine. Despite this, the latter feminist critique, namely, the belief that the new reproductive technologies could bring about some beneficial effects for women, continued to exist. This view was represented by infertile women and men, homosexual couples, single women and medical professionals (*ibid.*). Robertson also wrote that reproductive technologies are partially controversial because of their effect on women (1994: 14). While they open up liberating options for some women, they may also act as agents of further oppression. Most of the technologies operate on a woman's body in some way, turning it into a battleground of competing interests. Often they treat the woman as a reproductive vessel to produce or serve the interests of males and the State in producing healthy offspring (*ibid.*).

The analysis of public discourse has shown that certain changes have occurred in the social imagination and with regards to the social importance of the mother-child relationship. MPs, who were against the amendments, defended the rights of a child and they even went as far as to put the rights of an unborn or not yet conceived child (the concept of a child) before the rights of an adult woman to decide about her own body. Feminist theorist, Ann Kaplan, who explored the social images of a fetus and a future mother and the relations between them, puts forward a theory about a new ideological turn in fetus images in the popular media. "The fetus is now given a voice, it gets to speak; and it threatens to displace the mother in original ways" (Kaplan 1994: 122). She borrows a concept from Louis Althusser and calls it the 'interpellation of the fetus'²³. By interpellation, Althusser means a process, by which a subject is 'called' or 'hailed' via dominant ideology into becoming a being. The example here is the 'hailing' of the fetus as a subject, because it satisfies certain cultural needs. The

²³ See Louis Althusser's *Ideology and Ideological State Apparatuses*, 1970.

process is thus an inversion, where the fetus replaces the mother and becomes the subject. The female body is therefore socially unseen and marginal (ibid.: 123).

Women have the right to their own sexuality and their own body, which is a fundamental human right. Many people in Slovenia publicly expressed their opinion regarding the referendum that it was illegitimate because it should not be used for deciding about the human rights. However, the theme of the right to one's own body somehow disappeared, while the theme of the 'State' expanded. We can say that the prohibition of BMAPPs for single women has national interests. In discussions about the new reproductive technologies the physical body of the individual is often associated with the body of the 'State' (Petrović 2003: 292). The 'State' sees the future children as its own and so the allusion is present that the state is the mother of future sons and daughters. The ideal state was equated with the image of the ideal Slovene mother that needs to be loving, caring, but also authoritative and respected in raising its own citizens/children. The reproduction of both the state and the woman must be and must remain natural, genuine, native and authentic. The analogy between the body of the state and the body of a woman, who wants to use NRTs to become a mother, explains why these techniques are obviously perceived as dangerous and uncertain with the power to destroy the moral climate and the family pattern in Slovenia (ibid.: 293).

Discussion

Why do certain healthy and fertile women have the right to assisted fertilisation procedures and others do not? It turned out that in the Slovenian society we have two categories of women – single women and women in heterosexual relationships. The state allows the usage of BMAP procedures only for women in heterosexual relationships. In order to make it easier to discredit the right of single women to these procedures, the public discourse changed it into the right to have a child. Thus, the subject of discourse was transferred from the mother to the child. The rights of single women have clashed with the rights of children. Misunderstanding of and manipulating the amending Act (described above) enabled the right to BMAPPs to suddenly be changed to the right to have a child, which constructed an alibi to mock the principle of equality (Mencin Čeplak 2005: 117). Single women do not fall within the frame of the traditional family, which occupies the space of human reproduction.

Conclusion

To sum up the ideas, what is it about the single women that permit them to have equal rights as the women in relationships? Why can they not have the same rights as women in a relationship in Slovenia? This is a political

question. The heated debate covered themes, such as the rights of single women, the rights of a child, the decay of traditional family, medical technologies, and ethics and so on. With their symbolic and real power politicians define the conditions of our existence and functioning in a society. They write the laws and thus indirectly determine how we live. Political parties shaped the referendum decisions of voters with their own views on reproductive technologies and on who has the right to benefit from them.

Politics is a field where social reality is created. Citizens are pushed into an imaginary framework of acceptability and tolerability. Single Slovenian women are not allowed to use BMAPPs in Slovenia, but they can find this help abroad. Such limitation is a product of traditional ideology that preaches to a woman about where she belongs. The discourse in political and public space about single women was actually about discussing the femininity. What kind of limits should be drawn for femininity in the contemporary Slovenian space? I think that human reproduction is an area through which women can be controlled, dominated and disciplined. The law that takes away women's rights to assisted fertilisation procedures is patriarchal because it maintains women's dependence on men. It is an ideological construct.

References

Collier, Richard (1999) Men, heterosexuality and the changing family: (re)constructing fatherhood in law and social policy. In Gill Jagger and Caroline Wright (ed.) *Changing Family Values*. London: Routledge, 38-59.

Drglin, Zalka (2002) Materinstvo in razvoj novih reproduktivnih tehnologij - usodna srečanja. *Časopis za kritiko znanosti, domišljijo in novo antropologijo*, 30(207/208), 95-108.

Kaplan, E. Ann (1994) Look who's talking, indeed: fetal images in recent North American visual culture. In E. N. Glenn, G. Chang and L. R. Forcey (ed.) *Mothering: Ideology, Experience, and Agency*. London: Routledge, 121-138.

Keržan, Dorijan (2004) *Nove reprodukcijske tehnologije v luči antropologije sorodstvene povezanosti družine*. Unpublished doctoral dissertation. Ljubljana: Faculty of Arts, Department of Sociology.

Kymlicka, Will (2005) *Sodobna politična filozofija: Uvod. (Contemporary political philosophy: An introduction.)* Ljubljana: Krtina.

Mencin Čeplak, Metka (2005) Referendum proti načelu enakosti pred zakonom. In Vesna Leskošek (ed.) *Mi in oni: Nestrpnost na Slovenskem*. Ljubljana: Mirovni inštitut, 111-129.

Mickovik, Dejan and Katerina Kochkovska (2013) Biomedically Assisted Reproduction in the Republic of Slovenia and the Republic of Macedonia. *Iustinianus Primus Law Review*, 4(2), 1-21.

Moi, Toril (1997) Feminist, female, feminine. In S. Kemp and J. Squires (ed.) *Feminisms*. Oxford: Oxford University Press, 246-250.

Oakley, Ann (2000) *Gospodinja. (The housewife.)*. Ljubljana: založba *cf.

Petrović, Maja (2003) Spomin na referendum o novih reproduktivnih tehnologijah – spomin na imaginacije telesa v Sloveniji. *Časopis za kritiko znanosti, domišljijo in novo antropologijo*, 31(211), 272–292.

Robertson, John A. (1994) *Children of choice: Freedom and the new reproductive technologies*. New Jersey: Princeton University Press.

Sedlenieks, Klavs (1999) New reproductive technologies: Toward assisted gender relations. In *Anthrobase website* [Online, 10 December 2010] Available at http://www.anthrobase.com/txt/S/Sedlenieks_Klavs_02.htm [accessed: 5.3.2015].

Simon, James A. (1997) Advances in assisted reproductive technologies. In Kevin Wm. Wildes (ed.) *Infertility: A Crossroad of Faith, Medicine, and Technology*. The Netherlands: Kluwer Academic Publishers, 9-27.

Skušek, Zoja (1996) Zadrega s starši: Biološki in socialni starši v luči novih reproduktivnih tehnologij. *Socialno delo*, 35(2), 131–136.

Transcript of session of the National Assembly, 5th session, 18 April 2001. In *The National Assembly of Republic of Slovenia website* [Online, 5 September 2010] Available at: <http://www.dz-rs.si/wps/portal/Home/deloDZ/seje/evidenca?mandat=III&type=sz&uid=03D9661508C0EA69C1256A39004C255F> [accessed: 18.10.2015].

Transcript of session of the National Assembly, 5th session, 19 April 2001. In *The National Assembly of Republic of Slovenia website* [Online, 5 September 2010] Available at: <http://www.dz-rs.si/wps/portal/Home/deloDZ/seje/evidenca?mandat=III&type=sz&uid=753EFD01C73183D7C1256A3900526920> [accessed: 18.10.2015].

Transcript of session of the National Assembly, 7th session, 3 May 2001. In *The National Assembly of Republic of Slovenia website* [Online, 5 September 2010] Available at: <http://www.dz-rs.si/wps/portal/Home/deloDZ/seje/evidenca?mandat=III&type=sz&uid=7590AED8C0985410C1256A4800276F2C> [accessed: 18.10.2015].

Velikonja, Nataša (1999) *Narod, nacionalna država in homoseksualnost. Časopis za kritiko znanosti, domišljijo in novo antropologijo*, 27(195/196), 137–151.

Virant – Klun, Irma et al. (2002) *Od nastanka gamet do rojstva: oploditev z biomedicinsko pomočjo*. Radovljica: Didakta.

Yuval-Davis, Nira (1997) *Gender & Nation*. London: Sage.

Zaviršek, Darja (2008) *Socialno starševstvo kot ključni vidik sodobnih družinskih politik*. Ljubljana: Mestna občina Ljubljana.

Zupančič, Karel et al. (2000) *The future Law on infertility treatment and on bio-medically assisted procreation in Slovenia. Journal of assisted reproduction and genetics*, 17(9), 496-497.