The central paradox which locks Postmodernism up in knots, and which is made so apparent in this collection, is, I think, most aptly summarised in a tee-shirt produced by some artists at the University of Sydney’s Tin Sheds in the mid 1980s. It was, to my knowledge, also released as a tea-towel. On it was a 1960s style image of three women in mini-dresses, all of them with identical, high, fluorescently coloured beehive hairdos. They are all depicted dancing, possibly the twist. Above the image reads, ‘Foucault-A-Go-Go’, and below, ‘She loved him in theory, but could it work in practice?’

According to Paul Komesaroff, this collection of essays is intended to ‘explore the medical construction of the body and its outcomes at the level of values’ (at p1). The stance of much of the collection is medical or philosophical, often with an assumed medical audience, but the book as a whole would be useful to lawyers interested in broader reading around ethics, some areas of jurisprudence and theories of medicine and bodies. Writings about the relationship of law and bodies (or, in the uncomfortable singular that seems always to imply a unitary ideal or Elle McPherson, ‘the body’) have an illustrious history, especially in feminist thought which has struggled, not always successfully, to express embodied theory and experience in a transformative way. Philippa Rothfield summarises one strand of the feminist contribution to the collection as follows:

Elizabeth Grosz has written that “Feminists have increasingly recognised that there is no monolithic category, ‘the body’. There are only particular kinds of bodies.” If there are many kinds of bodies, multiple lived forms of corporeality, is medical ethics able and willing to deal with this diversity? (at p175)

Some of the writers in this collection contribute to this stream of embodied knowledge, in articles about ethical models around abortion, reproductive technologies, surrogacy and psychiatry’s ‘treatment’ of eating disorders.

The major plus of the collection is the articles which deal with a particular area in a detailed and theoretically rigorous way. I think this is particularly true of the articles which focus on women’s bodies and the recent developments in their interplay with medicine. These include the articles by Denise Russell, Rosalyn Diprose and Max Charlesworth. Partly, this may be a reflection of my own interests as a feminist lawyer rather than a medical doctor or bioethicist, but it may also be that their topics are also more timely and therefore leap out as more immediately relevant. For instance, in recent times in Australia there has been the decision in the ACT to permit ‘altruistic surrogacy’ (see Substitute Parent Agreements Act 1994 (ACT) and Artificial Conception (Amendment) Bill 1996 (ACT)). The South Australian case Pearce v South Australian Health Commission & Ors (Full Court of the Supreme Court of SA, 10 September 1996) held that restricting donor insemination services to ‘certain classes’ of married women is unlawful under the Sex Discrimination Act 1984 (Cth) (See Anita Stuhmcke, ‘Access To Reproductive Technology — Pearce v SA Health Commission and Ors’ (1996) 5 Australian Health Law Bulletin 39).
1997 the Queensland Anti-Discrimination Board held that denial of donor insemination services to a lesbian was unlawful in that state \textit{(JM v QFG, GK and State of Queensland, Decision of RG Atkinson, President of the Queensland Anti-Discrimination Tribunal, 31 January 1997.)} These developments, and the fact that ‘pro-family’ conservative governments currently control all state and federal parliaments with the exception of NSW, suggest that laws in these areas may become the focus of major political battles which were, until recently, considered well settled.

It also seems to me that the pieces concerning reproductive choice are more, well, embodied, than some of the others in the collection because they locate themselves at particular sites and avoid some of the more convoluted abstractions which philosophical writing can display. Catriona Mackenzie’s article is an overview and critique of many of the ‘classics’ of feminist philosophical and ethical writing on abortion, addressing the works of Carol Gilligan, Mary Anne Warren and Judith Jarvis Thomson. In some sense abortion is truly the old chestnut of legal and medical ‘ethics’ debates, and it is notable that most of the work Mackenzie reviews is 10 to 20 years old. Yet this discussion is far from dead, as shown by the fact that the legality of abortion was denied by a first instance and an appeal judge in NSW and very nearly ended up in the High Court in 1996 (See Regina Graycar and Jenny Morgan, "Unnatural rejection of womanhood and motherhood": Pregnancy, Damages and the Law’: A note on CES v Superclinics (Aust) Pty Ltd (1996) 18 Sydney Law Review 323). The case was on appeal to the High Court when, days after the High Court agreed to receive amicus briefs from the Catholic Church, the parties settled the case. Any comfortable sense of equilibrium, or general consensus over abortion in Australia was seriously rocked by this case. The issue of withdrawing Medicare benefits for abortions is one that lingers on, with particular help from Independent Senator Brian Harradine. (For a pithy summary of the Senator’s views and achievements, see David Marr, ‘Balancing Acts’ February 1, 1997 Sydney Morning Herald, Section 6, 1.) Moreover, David Marr notes in the aforementioned article, that since the federal Liberal government came to power in March 1996, RU 486, although passing clinical trials and local tests, was denied approval for local use, and Australian contributions to many international population, planned parenthood and contraception focused groups, including those under the auspices of the UN and the World Health Organisation, have been cut.

Max Charlesworth provides a clear and interesting description and gentle critique of various feminist positions on reproductive technologies; from the heyday of Shulamith Firestone’s wild optimism for baby machines through the early 80s techno-pessimists, to a more nuanced scepticism in the late 80s and early 90s. A point suggested by this piece, although not directly addressed, is the role of the medical profession in making decisions about who may form families. Techno-pessimists were, and still are, convinced that a patriarchal medical establishment would utilise its new tools entirely in its own service. While feminist belief in a coherent patriarchal establishment has dimmed considerably if not disappeared altogether, the regulation of access to reproductive technologies and health services has a distinctly ideological edge. While only South Australia, Western Australia and Victoria have statutes restricting access; the National Health and Medical Research Council also issues federal guidelines which are influential although non binding. Taken together, a promotion of the traditional nuclear family is invoked both by the profession itself
and by statutory restrictions on access. The NMHRC has new guidelines which admonish practitioners to have “serious regard for the long term welfare of any... children who may be born” as a result of the technology, including the simple and distinctly un-technological process of donor insemination. (See *Ethical Guidelines on Assisted Reproductive Technology*, NMHRC, Canberra, 1996 at 1. Prior to 1996 the guidelines advised that donor insemination should be provided to those in ‘accepted family relationships’: see National Health and Medical Research Council, *Supplementary Note 4*, Canberra, 1982). The Victorian statute, the *Infertility Treatment Act 1995* (Vic), restricts access to married couples only under section 8(1) (this section, like South Australia’s, is presumably unlawful, but is yet to be challenged) and demands that the ‘welfare’ of children conceived through donor insemination be the ‘paramount’ consideration (s5). As Gabrielle Wolf notes, this sounds very much like the *Family Law Act 1975* (Cth) — except that instead of judges considering the future well being of existent children, we have doctors deciding the future existence of hypothetical children, based upon their projected well being (see ‘Frustrating Sperm: Regulation of AID in Victoria under the Infertility Treatment Act 1995 (Vic)’ (1996) 10 *Australian Journal of Family Law* 71). There is more than a touch of eugenics in such an approach, and it is thus with bitter irony that I note the response of the Queensland Heath Minister, Mr Horan, to the JM case (finding that denial of DI to lesbians in Queensland is unlawful discrimination). He was widely quoted in the press as likening lesbians to Adolf Hitler in their desire to create a ‘super race’ (see, for example, ‘Lesbians may lose funding for access to donor sperm’ 4 February 1997 *Sydney Morning Herald*.) Where ‘new’ reproductive technologies themselves were initially viewed, by some feminist and anti-feminists alike as *unnatural*, it seems as though they have now become a settled part of the social and it is in their use that they are now defined as natural (for ‘helping infertile couples’ or ‘families’) and unnatural (lesbians ‘manufacturing’ children). Within days of the JM decision, the Queensland Heath Minister proposed amending state legislation to bar lesbian access to DI, and the federal Health Minister proposed denying Medicare to lesbians who do (somehow!) access DI services (see ‘Lesbians may lose funding for access to donor sperm’ above. Moreover, for a fascinating analysis of a similar media and political ‘panic’ in Britain see Davina Cooper, *Power in the Struggle: Feminism Sexuality and the State* (1995) at ch 5). The political dimensions of reproductive issues are not to be underestimated, or indeed the role which the medical profession plays in legal and quasi-legal regulation.

Catriona Mackenzie touches on the political dimensions of fertility issues in her piece. She offers a thoughtful critique of many of the big name philosophers on abortion, and concludes with a note that much philosophical thinking on this topic has been dominated by bizarre metaphors and fantastic examples (such as fish, kittens, violinists, and people seeds). She goes on to say that although such metaphors may have raised interesting issues, they have also served to focus

*Philosophical and moral reflection away from the contexts in which deliberations about abortion are usually made and away from the concerns and experiences that motivate those involved in the processes of deliberation. The result is that philosophical analyses of abortion often seem beside the point, if not completely irrelevant, to the lives of the countless women who daily not only have to make moral decisions*
about abortion but, more importantly, often face serious risks to their lives in contexts where abortion is not a safe and readily accessible procedure (at p57).

This observation is an interesting place to conclude an article and would have been a fascinating place to begin one. It also acts, inadvertently, as a rebuke to the some of the very abstract and often disembodied articles in the collection which theorise about bodies without ever really locating them. For instance, Doug White’s article is a clever and concise piece about new kinds of medicines and the breakdown of the ‘old order’ of traditional medicine. Yet I found it very hard to read sympathetically when so much of the article is premised on the belief that we, the bodies, have a huge and proliferating range of medical choices open to us. This collection was first published in the USA, where decent medical care, never mind a choice of medical care, is far beyond the reach of literally millions of citizens, and the option of universal (or even widely affordable) health care has disappeared from the political agenda completely. Even in Australia the range of choices of medical care accessible through Medicare is restricted almost exclusively to the ‘old order’ and will almost certainly be further constrained by the federal liberal government (for example the number of refundable visits to psychiatrists has already been capped). In this context the idea of choice is a particularly vexing one. In raising this criticism I know I am veering off into criticising an article, or even a collection, for what it does not do, and I am reminded of a review Angela Carter wrote of a rather innocuous, in itself, cook book by Delia Smith. The review began with a mention of starving children in Ethiopia and moved on to discuss mindless yuppie narcissism in Thatcherite Britain (see ‘‘An Omelette and a Glass of Wine’’ and Other Dishes’ in Expletives Deleted (1992) at 77-84; including the livid correspondence it provoked.) It isn’t fair to throw current examples at theories in order to discredit them or allege their irrelevance, yet the context in which you read theory will always determine how helpful you find it. Much of this collection will be well appreciated by an audience of philosophers and jurisprudences who are comfortable with this level of abstraction.

JENNI MILLBANK
Faculty of Law, University of Sydney.