

FINRRAGE

*Feminist International Network of Resistance to
Reproductive and Genetic Engineering*



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LOCAL NEWS

MEDIA UPDATE

NATIONAL BIOETHICS COMMITTEE'S SURROGACY PROPOSALS REJECTED AND COMMITTEE DISBANDED

A joint meeting of Australian Health and Social Welfare Ministers in March 1991 unanimously rejected the controversial proposals for the legalization of surrogacy in Australia, put forward in a report issued by the National Bioethics Consultative Committee (NBCC) (Sally Heath, *The Age*, March 26, 1991).

The NBCC was set up by the Australian federal government in 1988 to advise government on issues such as surrogacy, *in vitro* fertilization, genetic engineering and euthanasia. The Committee issued a draft report on surrogacy in 1989, which discussed surrogacy as a means of alleviating infertility for childless couples. It also proposed that state-run agencies be set up to regulate surrogacy arrangements. After receiving public submissions, more than half of which disagreed with allowing regulated surrogacy, the NBCC's final report was issued in April 1990, further endorsing legalized surrogacy. Two members of the NBCC, Heather Dietrich and Sister Regis Dunne, dissented from the report.

At the joint meeting of health and social welfare ministers, not one minister spoke in favour of surrogacy. The federal health minister, Mr. Brian Howe called for a unified national approach which would outlaw surrogacy. Ms. Kay Setches, the Victorian community services minister, strongly supported this call, and said that there were potential overtones of slavery in surrogacy.

Consequently, Mr. Howe dissolved the NBCC, and this was widely seen as a response to the overwhelming defeat of the legalized surrogacy proposals (Rosemary West, *The Age*, April 11, 1991). A new committee will be set up within the National Health and Medical Research Council (NH & MRC) to advise the government on bioethical issues. It is believed that some of the previous NBCC members will take up positions on the new committee. Critics have expressed concern that policy decisions on issues such as reproductive technologies will now be shifted

back into a medical framework. Mr. Nicholas Tonti-Filippini, a medical ethicist said that the NBCC was dominated by "an interest group that was pro-experimentation, anti-church, and anti-feminist", and that the old dominant group should not be carried over onto the new committee (see Heather Dietrich's articles in this issue).

Note: The membership of the new Australian Health Ethics Committee, to replace the NBCC and the Medical Research Ethics Committee of the NH & MRC, has been announced. The committee is chaired by Robyn Layton (barrister) and the deputy chairperson is Professor Ross Kalucy (medicine/psychiatry). Members of the committee are: Prof. Max Charlesworth (philosophy), Prof. Don Chalmers (law), Prof. John Funder (medicine/endocrinology), Prof. Anne Woolcock (respiratory medicine), Dr Heather Mitchell (medicine/epidemiology), Dr Rob Simpson (chief medical officer, Health Department Victoria), Dr Robin Watts (nursing education), Dr Sandra Gifford (public health), Sister Regis Mary Dunne (bioethics), and Ms Hilda Bastian (consumer advocate on health care). Seven members of the new committee were formerly on the NBCC.

BREACHES OF VICTORIAN INFERTILITY (MEDICAL PROCEDURES) ACT

The Health Department Victoria has issued warnings to the Epworth Hospital and the *Sunday Herald-Sun* (Melbourne) following the publication of requests for an egg donor and a surrogate mother. The items have raised concerns about the credibility of Victoria's infertility legislation, and how it is enforced.

On 28 April 1991, the *Sunday Herald-Sun* published a story about a woman from Canberra who was seeking a "surrogate" mother to bear a

child for her. *The Herald-Sun* reprinted part of her advertisement, including a post office box number. The advertisement had originally appeared in an interstate newspaper. According to *The Age* article, the *Sunday Herald-Sun* refused to comment on its story.

The Victorian Infertility (Medical Procedures) Act prohibits statements, advertisements, or other documents that are intended or likely to induce a person to engage in a surrogacy arrangement. The maximum penalty is a \$5000 fine or two years' imprisonment.

Christine Ewing, FINRRAGE (Australia) co-ordinator, drew these two advertisements to the attention of a reporter from *The Age*. Since its inception in 1984, there have been no prosecutions under the Victorian Infertility Act. Ms. Ewing said that the Health Department's reaction to the two items was crucial in determining the effectiveness of the legislation.

"Is it going to be dealt with? Is there going to be a prosecution under the act? This may be the first test to see if the act is really worth the paper it's written on," Ms. Ewing said. "There's absolutely no question that an advertisement for a surrogate mother is illegal in Victoria (Letter-writing is) letting people off the hook." Dr. Jocelynne Scutt, barrister and feminist, said that the law should be repealed if penalties were not enforced. ".....presumably the legislation is supposed to mean what it says. It's not as if it's some old law that's fallen into disrepute."

The chief medical officer of the Health Department, Dr. Rob Simpson, is responsible for administering the act. A spokeswoman for Dr Simpson said the department wrote to *The Herald-Sun* newspaper on May 9 to point out that it had breached the act. The spokeswoman said that Dr Simpson did not know the procedures for prosecutions, how and by whom charges would be laid, and where the case would be heard. She suggested that *The Age* reporter contact a lawyer to find out. No further action has been recommended by the Health Department.

On 1 May, *The Age* published an advertisement for an egg donor which assured the donation could be anonymous, "if preferred". Deputy advertising manager of *The Age*. Mr. Terry Plowman, said that in the normal course the company was careful not to publish advertisements that breached the

law or appeared to be unethical. Exactly what happened in this case was unclear.

The department is awaiting a reply from the Epworth Hospital concerning the Infertility Medical Centre's egg donor advertisement. Although a private clinic, the centre operates under the Epworth's code of ethics. The clinic was told its assurance of anonymity may have breached the act.

The act requires the names of sperm and egg donors and children to be registered with the Health Department. The centre's manager, Ms. Catriona King, said the advertisement's reference to anonymity simply meant that the donor could request that her identity be with-held from the recipient couple. She said the donor's identity would still be given to the Health Department.

However, the register exists in name only. The department has had seven years to set the register in motion; it remains blank.

"What that essentially means is that children born as a result of donor gametes can't trace their genetic origins," Ms. Ewing said. "It just seems like the hospitals have not been pushed to submit those records to the central register. It can certainly be seen as not good enough, because under the act the register should be maintained."

The Health Department said it is not "heavying" hospitals to comply with this requirement because of ambiguities in the Victorian legislation. There is no distinction between donor and non-donor gametes, which means hospitals wanting to comply with the act could have to supply "reams and reams" of information.

IVF - A DECLINING INDUSTRY?

The Pivet Medical Centre in Perth, Western Australia has reported a steep decline in women undertaking IVF procedures over recent years (Victoria Laurie, *The Age*, January 25, 1991). Dr. Cummins from the Pivet Clinic said that less than 260 treatment cycles were completed in 1990, compared with 800 cycles in 1986. Last year Perth's other IVF clinic Concept, offered a scheme of "pay on delivery", where full costs of IVF procedures would only be paid by clients on delivery of a live baby (see *FINRRAGE Newsletter*, October 1990)

Concept's scientific officer, Dr. Ron Swann acknowledged that this offer was intended to provide an incentive to "patients" who were put off by high cost and low success rates. It is claimed that the decline is due to "people having deferred treatments for several months due to economic circumstances....." In Western Australia, the cost of one IVF cycle is about \$5,500. Medicare covers about \$1,600, and full cover private health insurance may pay for \$2,400. The rest are costs incurred by "patients" without taking into account the costs of time off work. In many cases more than one treatment cycle is undertaken by women on IVF. In Victoria, the cost of a single IVF cycle is between \$2,500 and \$3,000, most of which is covered by Medicare. Privately insured clients pay \$500 out of pocket per treatment cycle (Deborah Stone, *The Age*, December 30, 1990).

However, private health insurance companies in Perth have introduced a five year waiting period for intermediate and top-table benefits for IVF procedures. According to Dr Cummins of Pivet, this has meant a massive 40% decrease in "patients" since the introduction of the private health insurer's policy. However, the Federal Health Minister, Mr. Brian Howe has announced that the five year clause has been declared inoperative under the National Health Act and therefore has no legal effect. Dr. Cummins said that it is now up to "patients" to test the matter in court by seeking payment from health insurers.

None of Australia's private IVF clinics has a waiting list.

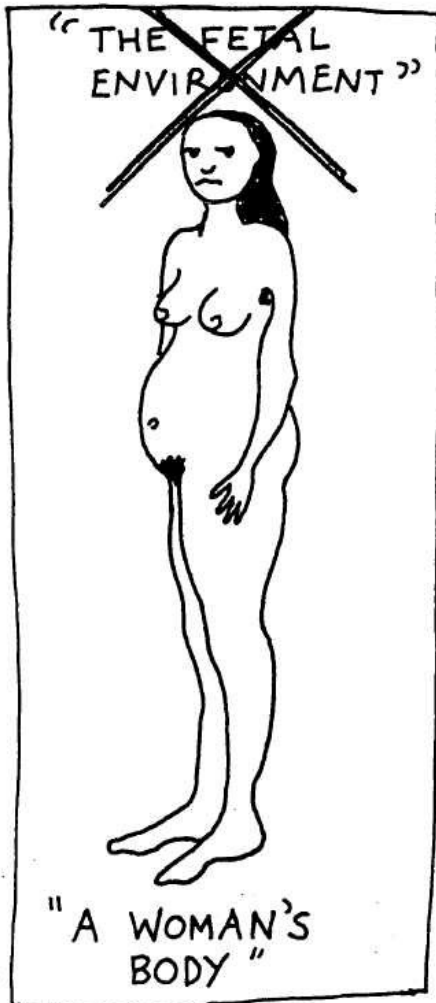
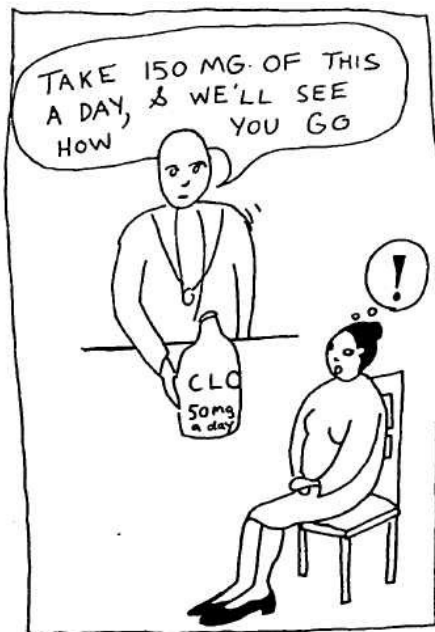


A sizeable percentage of women on the I.V.F program are there because of their husband's infertility

TEST IDENTIFIES "SILENT GENES" OF GENETIC DISEASE: DNA TESTING BY A HAIR'S BREADTH

Scientists at Queensland University of Technology have developed a test which can detect recessive genes in a single hair root cell (Carolyn Collins, *The Australian*, October 16, 1991; Graeme O'Neill, *The Age*, October 19, 1991). This genetic screening technique will allow prospective parents to determine whether there is a risk of passing on genetic conditions to their children. Recessive genes do not cause disease in the carriers, but in individuals who inherit two copies of the recessive gene. The QUT scientists say this test can be used to detect aberrant genes responsible for cystic fibrosis, haemophilia, phenylketonuria, and some forms of muscular dystrophy. One specific 'mutation' accounts for 70% of cystic fibrosis cases and six other genetic irregularities account for another 15% of cases. The researchers claim that seven tests should reveal most individuals who carry a recessive gene for cystic fibrosis. In western populations about one person in 20 carries such a gene, and one couple in 400 may be at risk of having a child with cystic fibrosis. Professor Dale of the QUT team said it would be feasible to screen couples with family histories of particular diseases. Given that most people are carrying recessive genes for genetic diseases, the QUT team has considered the idea of mass screening populations, as a way of reducing the high social and economic costs of genetic disease in the general population.

The test uses the polymerase chain reaction (PCR) which can multiply a selected DNA fragment into millions of copies, starting from a single copy present in a human cell. The PCR gene amplifying technology was originally developed by the Cetus corporation in the US. This technique is used in forensic science, particularly in rape and murder cases. The test will be patented and marketed worldwide by Geneco, a private company set up by QUT.



VICTORIAN INFERTILITY (MEDICAL PROCEDURES) ACT UNDER REVIEW

The Victorian Standing Review and Advisory Committee on Infertility (SRACI) has been reviewing the Victorian Infertility (Medical Procedures) Act 1984, which is the legislation regulating reproductive technology programs and human embryo research in the state of Victoria, Australia. The review was prompted because of community concern about developments in embryo research and ambiguities in the legislation. For example, there is no definition of embryo under the act, and there is a division of legal opinion as to whether experimentation is permitted on embryos older than 22 hours (Sally Heath, *The Age*, September 14, 1991). In a supposed "leak" to *The Age* newspaper, it was reported that the SRACI would approve experimentation on embryos up to 14 days (Michael Pirrie and Deborah Stone, *The Age*, September 8, 1991). *FINRRAGE (Australia)* presented a comprehensive submission to the SRACI in which it pointed out that the act already permits destructive experimentation on spare embryos which are older than 22 hours. Other aspects of the SRACI's review include time limits on the storage of frozen embryos, criteria for people allowed to participate in reproductive technology programs, a central register for the recording of information about gamete donors, and membership of the SRACI.

HUMAN EGG FREEZING "PERFECTED" IN AUSTRALIA

Researchers at the Royal Women's Hospital in Melbourne claim to have "perfected" techniques to successfully freeze and thaw mature human ova (Kevin Norbury, *The Age*, September 15, 1991). Mr. Ian Johnston, a researcher in infertility at the Royal Women's Hospital said that research on freezing methods had been carried out over the past three years and the latest tests indicated that the eggs were "surviving well". Mr. Johnston said many researchers had been hesitant about freezing mature eggs because of the damage that is caused to the egg's chromosomes in the freezing and thawing process. The researchers now want to fertilize such freeze-thawed eggs and carry out chromosomal analysis on the subsequent embryos. They have

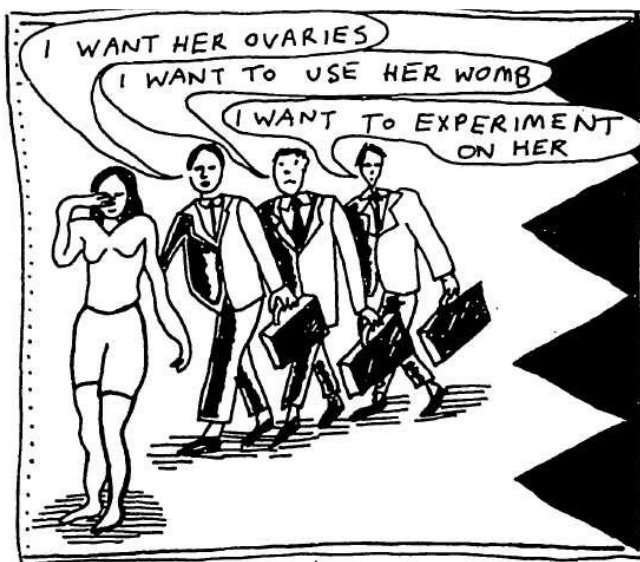
applied to the Standing Review and Advisory Committee on Infertility in the state of Victoria to carry out tests on embryos older than 22 hours which would result in the destruction of such embryos. At present the Victorian Infertility (Medical Procedures) Act requires approval for experiments which would involve destruction of embryos created specifically for the purposes of experimentation. Such embryos are allowed to develop up to but not beyond the point of syngamy (approximately 22 hours) under the statute. However, the same restrictions do not apply to “spare” embryos, i.e., those which are not implanted back to a woman’s body during an IVF cycle. Mr. Johnston said that “We now have the technique which appears to be able to allow us to freeze and thaw mature eggs. The next step is to fertilize the egg to see if sperm penetration is a success.”

Professor Carl Wood claimed that women have approached him to enquire about the possibility of egg freezing so that they could defer having their children while they concentrated on their careers. Wood said that if women had their eggs collected and frozen when they were young, it would enable them to give birth later in life (by embryo transfer) without the fear of having a child with genetic abnormalities, such as Down’s syndrome. Dr. John McBain, an IVF gynaecologist said that women who faced becoming “sterile by reaching menopause, or as a result of medical treatment”, may soon be able to have their eggs stored. The researchers claim that freezing of eggs would remove the ethical problems associated with the storage of frozen embryos.

GENETIC REGISTER GUIDELINES PROPOSED BY NH&MRC

The National Health and Medical Research Council (NH&MRC) in Australia has made a decision to approve genetic registers (Nicholas Tonti-Filippini, *The Age*, July 3, 1991). Information for a genetic register begins to be collected when a family member is referred to register staff for diagnosis, genetic counselling, predictive testing or management of a particular genetic condition. The NH&MRC’s guidelines for genetic registers state that the “pedigree and health status” of family members are to be recorded in so far as they are known to the family member being interviewed. More information may be obtained from members of the immediate family, more distant relatives, hospital records, and health professionals. The register would be formed by systematic gathering and cross-checking of information. The guidelines note that information is obtained by personal contact with individuals only after obtaining consent, which may be given verbally. Information about family members could be recorded, even though consent has not been obtained from them. Nicholas Tonti-Filippini, a bioethicist with the Australian Catholic Bishops Conference is concerned that genetic data bases provide another avenue by which medicine can control and pressure individuals to accept medical management even when they are asymptomatic and quite well. Individuals who have been identified as having a genetic disease are likely to be placed under enormous moral pressure to enter programs aimed at eliminating genetic disease, such as sterilization, prenatal testing, or IVF using genetic screening of embryos. Those individuals who have been identified may also find it extremely difficult to obtain health insurance, disability cover or death superannuation benefits.

Mr Tonti-Filippini also points out that while this is an issue for broad community concern, the guidelines have been decided by an elite group. The NH&MRC’s guidelines are not subject to veto by Parliament. The NH&MRC has the role of promoting research but it is also the body that sets ethical limitations on research. The two roles are conflicting and the result is a lack of ethical review of medical research and new procedures



ARTICLES

MOTHERHOOD AND THE FEMINIST VISION: THE LESSON FROM THE NEW REPRODUCTIVE TECHNOLOGIES

Heather Dietrich

This paper was presented by Heather Dietrich, member of the National Bioethics Consultative Committee, at a national conference on surrogacy, Melbourne, February 22-23, 1991.

I would like to firstly identify where I am coming from when I look at and analyse the implications of surrogacy arrangements in family formation. Secondly, I will state my own beliefs, and position on surrogacy. Lastly, I will address directly the session topic of “Motherhood” raising the dangers highlighted in surrogacy around motherhood and then sketch the positive vision of a new social order I think it is possible to clarify if we can face and grow through these dangers. So I will be talking broad and high, but I hope not disconnected from reality.

My analysis:

I have worked in research and teaching in technology and society and technology policy. Hence, I view surrogacy from my knowledge of the interaction of scientific and technological knowledge with the social structure in which it occurs. As such, I consider current concern over surrogacy to have arisen because of the scientific medical innovation of the new reproductive technologies, IVF especially. With the small success rate, there has been a push to extend such services into surrogacy arrangements and give people babies. Also, an expectation has been created that infertility can be overcome. I look at surrogacy therefore, as part of the current radical developments occurring in bio-medical science which are challenging us to examine what values we hold with respect to our own genetic make-up and gestational process.

I also look at surrogacy from a feminist standpoint and ask in what way these arrangements do or do not exacerbate gender inequality, and what might be learnt for and from the feminist vision of a different and better social order. Hence, I am concerned to contribute to developing a progressive, positive change in our social order towards a society based more on equity and social responsibility. I do not want to look at the past except to learn by mistakes.

My position:

I understand that to want to have a child and not be able to mother or father one is painful - very painful, and those of us who haven't faced this cannot know how much it hurts. I do not wish in any way to belittle this pain or the positive impulse expressed in the desire to parent.

I do not think it is a good idea to endorse and embody surrogacy arrangements in law. I think it risks harm to those born, those relinquishing and to the family so formed. I consider it a dangerous precedent for human society in terms of how we view ourselves. I believe surrogacy is not a good or even any solution to childlessness and infertility at the deeper levels where the hurt really impacts. I think it a dangerous social family structure to embody in formal law. It risks selling children and all the other dangers we have heard here today.

My opinion on what public policy should be concerned with is expressed in my National Bioethics Consultative Committee dissenting opinion. The purpose of public policy is to ask where the maximum duty of care lies with respect to any instruments of public policy which are developed.

This means looking at the social responsibility any legal or public policy framework holds to maximise the good and limit the harm done to those in the system of family structure. Such an approach does not focus on individual rights in competition, but emphasises the dynamics of social relations which interact to form families. As such, it talks of principles of social responsibility and duties of care, not rights.

I will now focus on motherhood. It is interesting that this phenomena of surrogacy is sparking so much interest. The numbers of people are relatively small compared with the numbers of Aboriginal children dying in or close to birth. Cynically, one could say it was the glamorous aspect of the issue – the high drama and ability to come down with morally black and white judgements. I think there is an element of this, but more fundamentally I think surrogacy is making us ask, what is it to be a mother? What does “mother” symbolise and mean to us? What are families? And I suggest that this is causing us to ask, what is it to

be human? We would seem, particularly now in advanced industrial societies, to be facing a crossroads of decision making about our notion of family formation, our social relations and broadly our relationship to the earth, to the economy. Technology is deeply implicated in this.

Technology and IVF has offered those facing the grief of infertility a solution. Surrogacy has offered those facing the grief of failed technology a solution.

The separation of the human embryo from a woman's body and life is a pivotal scientific biological step in human consciousness which is forcing us to examine our fundamental values in relationship to our sense of self. Both in personal terms of how we define individual life and in social terms of how we construct meaning and identity through the social constructs of family, we really are asking right now, what is the meaning of life? This is the significance of our discussions hereabout surrogacy today. I believe we are not talking or caring about the legal framework which will facilitate ten couples a year using surrogacy arrangements. We are undertaking the first steps of a wide scale discussion which human societies will be forced to undertake as the scientific and technological knowledge persists and expands the possibility of medical research and action. I would make a plea that we don't rush in with shortsighted solutions. Huge changes can occur around these issues, but best and most enduring change occurs incrementally and from a process which involves synthesis. The separation of sperm from a man's body and life, the separation of embryo from a woman's body and life is offering us a profound conundrum on family formation. We are talking now of genetic parents being distinguished from social parents. Women are bearing children and saying, "I am not the mother of this child."

I want to highlight that this issue is not just about bodies, but it is about socially constructed lives. This is the most important aspect for us to come to terms with in surrogacy because it is what humanises us. Human social structure, values, processes, are our humanity. Crudely speaking, it is what differentiates us from apes. A woman births a baby physically, emotionally, legally, historically into a family, a culture, a place in history. This social placing is a cornerstone of how we form a personal and social identity. At every stage of pregnancy and birth, we, the society, talk literally and symbolically to the mother in a way that creates this process. This is what we have learnt from adoption. The way the world talks to you when you are adopted is the source of the alienation – not the physical removal of your genes from physical continuity with your mother. Genealogical bewilderment has been a useful

handle with which to draw attention to some of the suffering that adoptees felt around their formation of personal identity, but it also covers that issue with a scientific slant that is distracting. What happens is, people say things like, "who does she take after?" and there is a silence around you in the reply. In that way, you learn that you are different, that your case is a special one, that you do not have the same continuity and place as others.

Now, we are almost throwing a switch in the case of surrogacy, and saying, 'we will ignore current social processes of family formation. We will do it like this when it suits our purpose.'

The rapidity of proposals for major legislative changes to family law I find incredible. In other areas, change is slow, incremental and hard won. Proponents of surrogacy have implied it is socially progressive. The tenor of the Kirkman sisters' book was in this vein. I don't think it is progressive. I think it risks contributing to an alienation of us from ourselves. I don't hold it to be progress because I see in the arguments used, values which emphasise ownership and control of children described often in market terms, using the language of commodities; for example, commissioning parents. I think that speaks worlds as to what is really going on here. The language of individualism and the language of rights is used to justify the legal frameworks. I think this is about defending borders, emphasising separation and competition in human relationships. I think we have to move on from this sort of framework and understand ourselves to be part of a system of interconnecting responsibilities. We have to start talking in that way if we want to create new and different ways of organising ourselves socially and morally.

I hear also an emphasis on the biological rather than the human, personal, social construction of reproduction. Gametes, embryos, not lives, are talked about. This separation of the biological from the personal and social seems to me a profoundly alienating and dangerous process.

There is in surrogacy arrangements an attempt to solve the personal and social problems of infertility with a technical solution. As I have said, I see surrogacy embodying and expressing attitudes which have emerged with the new reproductive technologies. Essentially, these emphasise the dominant paradigm of medicalisation of reproduction. We expect a scientific, medical, technical solution to all human ills. Infertility is defined as a disease, a medical condition. And from then on, all language constructs solutions in medical technical terms. Actually the pain is not being able to form a family. Not experiencing biological reproduction directly is, as I hear childlessness described, a small part of the loss faced.

In the range of social inventions possible, there could be many ways to share in nurturing, forming a family, other than conventional biological ownership. But nowhere do I hear serious discussion and appraisal of how this might be developed and applied to the situation. Surrogacy risks exploiting women, commodifying children, introducing an element of insecurity and doubt in our sense of self. But where is the widespread discussion, not of the technology, not of the physical production of a baby for exchange, but of how to create adequate social processes to deal with the problems of childlessness? I mean by that, how to broaden nurturing so changing the situation that the only access to this experience is to create your own biologically owned offspring. This isn't a simple thing to change. But is it any more difficult than IVF and wouldn't there be at least a 10% chance of success? We talk and think technical solutions to social, psychological, emotional problems. If we have learnt nothing else this century, we have learnt this isn't the way. Science is not enough. We didn't water deserts with the power of the atom. We created the bomb because we ignored the social construction of all scientific/ medical practice.

We face an environmental crisis which is demanding we do things differently. I think feminist vision holds some important ideas on how to do things differently. I will sketch some.

- To view interactive relationships of people and planet, not oppositional relationships.
- To look at how we are all connected, not unconnected and individualized.
- To established modes of social interaction and institutional structure which embody such awareness.

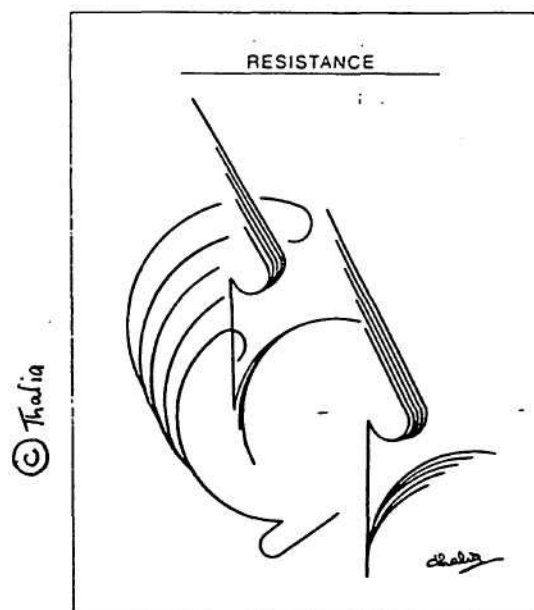
I think mothering has been a practical and symbolic source of the feminist vision of a more equitable society. Women have been exploited and limited because of and in their practice of mothering. Women have also directly experienced interactive power with, not power over, another human life.

The dominant patriarchal paradigm may have emphasised the sacrificial aspects of mothering. Women have actually lived the creative power of intimate interconnection and responsibility with growing lives inside them physically; or beyond the womb in extensive patterns of nurturing of others in which women have been involved. This knowledge isn't confined to women who have borne children. It lives collectively in women's experience, culture, history. It is a rich source for creating a different, better social practice and institutional structure. I think it is worth defending, expanding and developing. The world needs it desperately right now.

I do not want to control and defend the borders of my womb, possessing and imprisoning embryonic human life. I want to fill my womb and expand my physical, emotional and mental horizons, to become more than the sum of my parts.

My plea is this. Let us look at the challenges of family formation and infertility brought up by the new reproductive technologies, in an expanding universe. Let us not retreat into the cave of possession, ownership and exchange which limits our notion of what it is to be a human.

Heather Dietrich, Canberra, ACT.



LAYING ON THE BARBED WIRE OF THE NATIONAL BIOETHICS CONSULTATIVE COMMITTEE.

Heather Dietrich

In April 1986 the FINRRAGE "Liberation or Loss?" conference called for a national body to be set up which would oversee the social control of the new reproductive technologies (NRT's). Two years later the NBCC was set up. This followed a concerted effort by many of us concerned about the social and personal costs of the NRT's and genetic engineering. Following "Liberation or Loss?" the NSW Women's Advisory Council (WAC), (facilitated with diligence by workers at the NSW Women's Coordination Unit), created a working party on the NRT's and pushed for a national body. A NSW WAC proposal for a national body to control the NRT's was produced and was influential in the final structure and composition of the NBCC.

The NBCC met in August 1988 for the first time with a gender equal and cross disciplinary membership. It was to offer advice to government on the social, legal and ethical implications of the new developments in biomedical science and practice. Each State was represented. Two members of the NSW WAC working party were appointed, Rebecca Albury and myself.

The creation and composition of the NBCC was a considerable achievement for the groundswell of concern and action which followed “Liberation or Loss?”. To have two identified feminists on a national body of such status offered great hope!

In February of this year the NBCC was disbanded following a controversial report on surrogacy in which a majority of the committee recommended pro-surrogacy legislation. I and another member, Sister Regis Dunne, dissented from that report and offered oppositional arguments. Rebecca Albury had changed her opinion on surrogacy from the NSW WAC working party position and supported the pro-surrogacy report.

The joint Health and Welfare Ministers meeting (March 1991) which disbanded the NBCC also rejected the NBCC surrogacy report and recommended anti-surrogacy legislation in all States. Thus the surrogacy ‘battle’ was won but the ‘war’ to have a mechanism for the social control of the NRT’s was lost. Furthermore, the NBCC function is to be “merged” (I would say absorbed) into the NH&MRC and a new Ethics of Health Care Committee.

What happened?

It appears to me that the feminist action, which was pivotal in the creation of the NBCC, constituted in hindsight a laying down on the barbed wire of medical dominance so that conservative interests (represented in the disciplines of bioethics and law) can walk into the NH&MRC. Indeed the justification for this merger given by the Minister for Health, Mr. Brian Howe, was that this move will open up the NH&MRC to the ‘social’ aspects of health. Robyn Layton, chair of the members will carry over. It is clear that there will be no explicit women’s interest representation and there will not be equal gender membership, only “appropriate” numbers of women. (It is certain one of the two feminists will not be on the new committee, much to the relief of my family and friends). Also gone with the new committee will be the explicit focus on the new reproductive technologies and genetic engineering. It is unfortunate that the NBCC was dissolved just as it was to consider its reference on genetic engineering in human embryos.

What happened to the NBCC?
Does it matter that it has gone?

What can be learnt for feminist action from it?
What can we do next?

What happened was an ideological conflict between liberal individualistic analysis and social constructivist feminist perspectives. This came to focus in the surrogacy discussions. The committee became polarised between the arguments on principles of the rights of individuals and those coming from a perspective of social construction, responsibility and equity. The original consensus decision-making of the NBCC had been replaced in August 1989 with formal rules of committee procedure and voting. In the surrogacy discussions the informal intention and ability to reach consensus went as well. Polarised also were the ‘welfare’ and ‘health’ perspectives and portfolios which the NBCC was supposed to integrate (the NBCC took its references from both Ministerial bodies of the Australian Health Minister’s Advisory Committee and Social Welfare Ministers). The welfare perspective came to be identified with the “rights of the child” and associated advisers to welfare ministers who had already offered ministers advice to outlaw surrogacy. “Bioethics” in the title of the National Bioethics Consultative Committee was interpreted as ethics of health care and took precedence in NBCC discussions and arguments. Bioethics and “health” therefore became opposed to “welfare” in the discussions of the committee. The dominant bioethics discipline draws on abstract principles which are individualistic in their starting place. They start with an autonomous individual, whose interests are to be defined and protected, and build to the collective good. This contrasts with a feminist perspective which begins with a socially constructed whole (resulting from the social interactions involving class, gender and ethnicity variables), and asks “Who has the most and least power in this situation?” There are of course feminist ethics, but the dominant mode of how ethics is taught and how it was used in discussions by the NBCC is that of the liberal-individualistic view, such as in the writings of John Stuart-Mill. Thus the term “bioethics” was taken to mean bioethics in the dominant mode and that this definition of bioethics should take precedence in discussions and considerations on surrogacy. Hence, liberal-individualistic arguments won out, and social constructivist arguments (let alone feminist arguments) struggled to be heard. The liberal-individualistic arguments from Law came to the support of bioethics in the NBCC surrogacy discussion, as did that of the medical model. In this view it is seen as the responsibility of health care to maximise the individual patients health and respond to alleviate suffering. Surrogacy was discussed in the health context as a response to the “disease” of infertility.

The disciplines of law, medicine and bioethics were represented on the NBCC by high status men in

these fields with the exception of the chair Robyn Layton, a judge and barrister. The perspectives of social science and welfare were represented by women members, none of whom approached the professional status of the men. In my opinion, these status factors were important in the dynamics of the committee discussion and exacerbated the difficulty that the welfare, equity and 'heart' perspectives had in being heard. Once the discussion had been firmly anchored in bioethical principles based on the individual and 'his' rights, arguments which began with "surrogacy doesn't feel right" could not hold their own against the big names of classic philosophy, steeped in historical references. The feminist perspective of social equity and ethics of collective care struggled but ended up annexed in both discussion and the final report.

How, when there were more women (two of them feminists) than men did these dynamics happen? I suggest there are two crucial explanations: The split in the feminist position and the lack of formal and informal support for the feminists on the committee.

The split in the feminist position, around the use of 'rights' arguments, points to a vital area for feminism to address i.e. a feminist ethics of care and collectivity. The feminist argument on the "right to choose" in abortion were used in the NBCC report to further justify the rights of individuals to procreate using surrogacy arrangements and for women to have the 'right' to use their bodies to be so called surrogate mothers. The feminist perspective offered by myself (of social responsibility and the potential harm to the person born and the relinquishing mother) were characterised by the majority as "paternalistic". This points to a real danger in using rights arguments in feminist responses to the NRTs. As I have indicated, rights arguments are based on liberal individualistic notions of human life. I believe feminist ideas are about collective notions of human social construction and therefore action. They are deeply concerned with holistic understanding and propositions for equitable, positive social development. Feminism does not separate body from mind, heart from head, personal from political. Talking of rights therefore limits the vision and arguments of feminism to those of the masculinist assumptions of liberal theory. I argue on abortion in my dissenting opinion as follows:

This emphasis on rights and control is a partial picture of abortion. A woman deciding on an abortion is taking an individual and socially responsible act,... It is a responsible act with respect to her individual life and her role and function as a mother..... Least harm is done in an abortion by not creating a stressed family, a damaged child or an "unwanted" life....

I argue that abortion is an individual decision taken about a social act of family formation. It is not

merely a woman controlling her body but acting with responsibility for the formation of another life. The decision involves consideration of benefit and harm to more than her life. The arguments of liberal individualism are patently inappropriate for such a situation as this; how can the 'rights' of the child in the womb be separated from the 'rights' of the mother. Nelson & Nelson in *Hypatia Fall 1989* put it nicely:

Feminists have seen the shortcomings of abstract individualism in that the abstract individual looked so, little like a woman or a child. There is something distinctly hairy chested about Hobbe's state of nature, about the social contract, about revealed preference theory, about the conception of equality that accords to every rational individual equal rights regardless of gender, economic class, race or age. As Virginia Helde remarks, it stretches credulity even further than most philosophers can tolerate to imagine babies are little rational calculators contracting with their mothers for care.

I would like to urge those of us involved in the feminist response to the NRTs to take these notions further and fully develop ideas and principles based on a feminist "ethics of care" as described by Carol Gilligan in her analysis of women's dominant moral decision-making mode. If we can develop and expand such notions, the next time a woman holds the position I did on the likes of the NBCC, she will be able to wield amazonian principles of care against the giants of liberal classic theory.

The other crucial factor in the NBCC decline was the failure of the women's formal and informal network to follow through with its initiatives and fully support and liaise with the women's representatives on the committee. My experience was of being isolated on the NBCC externally and internally. There was no interaction with the woman's forum that had put me there and I was not accountable to anyone except in my own moral and political book.

If women's interests and representation are to be called for, they need to be made to work once achieved. Some thought is needed on how to link women's public policy representatives with the structure of women's councils, bureaus and networks.

Where to from here?

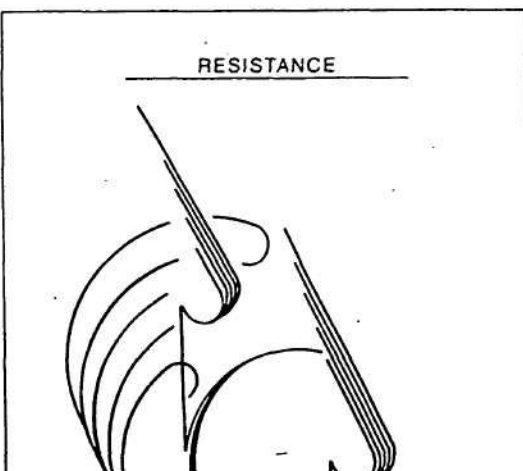
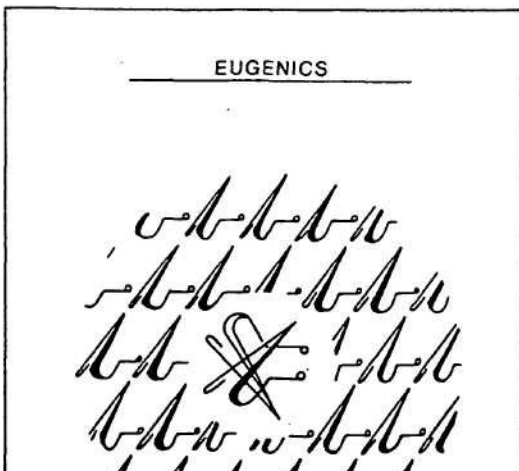
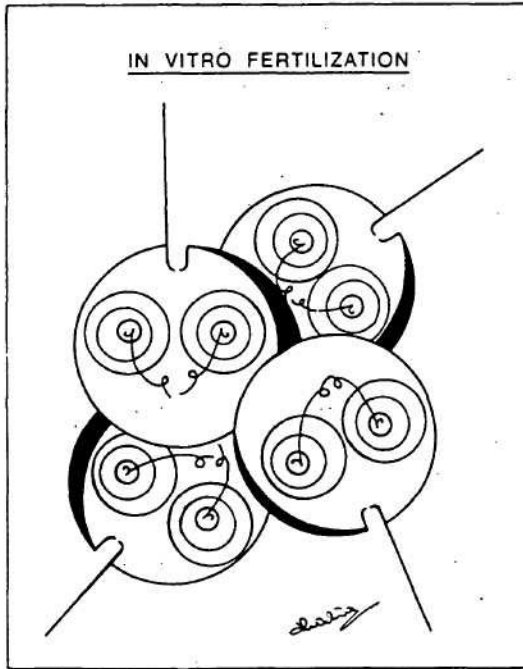
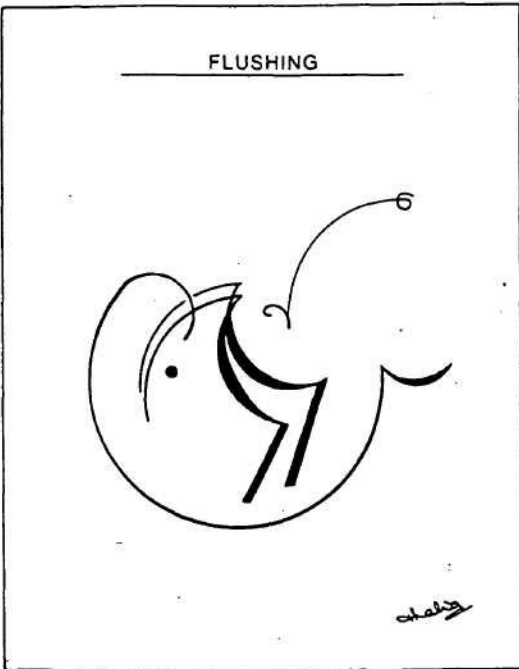
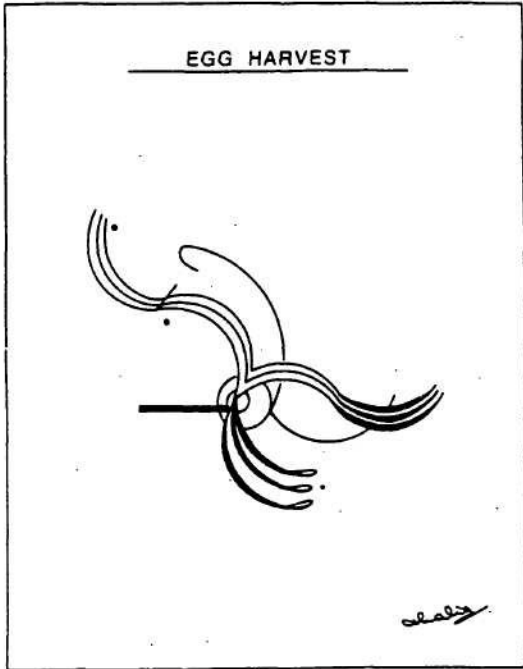
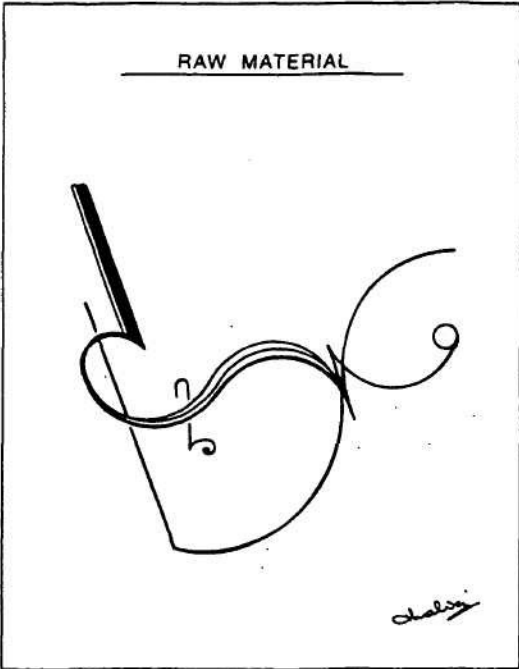
The temptation is to retreat (as I saw in the feminist response then in the UK last year) to safer well trodden feminist ground, such as the rights arguments of the abortion campaign or individualistic preoccupations and solutions.

But.... how about another think and another conference in the next two years?... on feminist ecological and social visions of health-planetary and personal? We got the answer to Liberation or

Loss? loss! Better create our own solutions.

Heather Dietrich, Canberra, ACT.





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**FEMINISTS, CHILDBEARING AND AGEING: A PERSONAL
POINT OF VIEW.**

Romaine Rutnam

This is the text of a talk prepared for the ACT Women's Health Network's Meeting organised by its Reproductive Technology Working Group, Canberra.

In the two year period surrounding my 40th birthday, eighteen of my women friends, colleagues and relatives gave birth to their first child. Only two of them were under 30 and, as I recall, they were the only ones to have uncomplicated pregnancies and/or births. Many of them would consider themselves feminists of some sort; most of them have benefited from feminist actions, in that they are economically independent and are committed to interesting careers outside motherhood.

It was during that period that I began my research into the history of IVF technology in Australia. For me it was a time of revelation on many fronts. I learned about the strength of the drives in many Australian women and men to overcome the limits placed on their lives by the inability to bear their own children. I also learned about the impressive body of feminist research which had uncovered the drives of European science and medicine to dominate and overcome the limits placed on human activities by biology and other aspects of our planet's ecosystems.

One of the ideas I have drawn on from the experience of IVF and similar medical research is that it highlights a conflict between different strands of feminist thought, which have very different implications for the lives of women (and men). One of these strands argues that feminism is about increasing all kinds of choices for women, which will allow us to live any way we please and (at least) with equal freedoms as men. Our T-shirts say it all: "No limits for women" and "We don't just want to eat cake, we want the whole bloody bakery!"

The other stand is critical of the outcomes of the kind of knowledge and action produced by male science. It argues instead that feminism must be about creating different kinds of knowledges and policies, which

recognise the importance of diversity and other species and are respectful of the need for balance in our ecosystem.

For me, IVF and the other new reproductive technologies are a continuation of European culture's confident and simple belief in the benefit of putting our resources into expanding the boundaries of human action. So, since we have learned that women's bodies (and possibly men's too) tend to become less fertile once over 30, and childbearing becomes more risky, the latest answer given by this culture is a high-tech medically invasive one: get women to have their eggs removed and frozen while in their 20's, and re-implanted years later either in their own bodies, even after menopause, or in that of a younger "surrogate" mother. The far more common answer which many of us in Australia have come to take for granted is the less high-tech but still invasive and costly solution of increased interventions in childbirth.



These solutions certainly expand our choices, and some feminists have welcomed them while arguing that women and men must be allowed to make fully informed choices about using any of them. What I want to discuss is whether feminists shouldn't start to be more critical of the choices we, within our culture, make. If we accept the dangers to our planet's viability coming out of European science and medicine, then we need to play a part in reshaping our choices in the direction of ecological sustainability.

I want to argue for a social policy, based on an acceptance of biological differences and limits, which encourages and supports women to have their first babies at the healthiest time physically for both themselves and their children (the mid to late 20s). This would require our society to take the task of parenthood far more seriously than it presently does. It would require boys as well as girls to be brought up to respect their bodies, listen to them, and not take their future fertility for granted. It would say to young women and their partners who choose to become parents that their careers and studies are accepted as taking second place to child bearing and parenting for some years in the late 20s and early 30s. This would mean provision of adequate childcare facilities in all tertiary institutions and major workplaces and acceptance of part-time paid work for all new parents, both women and men.

It would also require imaginative ways of valuing the skills gained from parenting plus part-time work back in education or the workforce, so that those of us who choose not to parent are not given an unfair advantage in career opportunities. If we still want to value equality between women and men, I would argue that we want equality for men on women's terms. That means accepting a pattern of living and working which is closer to the connectedness of body and mind which more women than men in our culture manage to achieve. We would thus overturn the current tendency for women to copy the excessive working hours of men as they move up hierarchies in academia, public service, corporations or politics.

I accept that this position comes close to the "biology is destiny" view which many feminists have for (so) long resisted. But I am also saying that healthy motherhood is not the only destiny for women, and that at least in the foreseeable future it will be healthy for our planet if all women do not choose to reproduce. I do also acknowledge that parenting requires far more than just physical

fitness at the time of childbirth, and includes questions of maternal and paternal psychological maturity, supportive relationships, and adequate financial resources. However, greater age in first time parents doesn't automatically guarantee the latter. Among my friends, it has certainly meant greater tiredness and strain for the 40 year old parents trying to keep up with active and curious toddlers!

My father died when I was 16, and I still regret that I never knew him as an adult. My only niece was born after all her grandparents had died, and my brother (if he survives past my father's age) will be 60 before she becomes a teenager. While I welcome a society which does not restrict family supports to biological networks, I still think that the latter are culturally and symbolically important to sustain.

One conclusion I have drawn for myself from IVF is that we, as feminists and women, need to discriminate between choices present and possible. The criterion for making these choices which I find most relevant to humans living in the 1990s is that of ecological sustainability. This means accepting that humans are animals like others; that we have a finite life span of different stages, that we are born, develop to a stage when we may choose to reproduce, and then die, leaving space for future generations and new ideas.

As a woman of middle age, my choices about reproduction are moving on to choices about ways to age and die. What is common in all these choices is that feminists have offered us two opposing ways to view them: we can either actively seek, welcome and choose all possible options, or we can accept our bodily limits and restrain our own demands upon society accordingly.

We are living in a time when public policy is increasingly forcing restrictions in demand upon us. In relation to health policy, I would like to see such restrictions made along the criterion of what is sensible in terms of sustaining life on this planet, rather than letting the richest in both rich and poor countries buy whatever they can afford, while a bare minimum of services are allocated to the rest. Just as I think we have to ask serious questions about a policy which expands reproductive choices for the richest among us, I think we have to question health policies which put more and more resources into WHO Europe's target of "adding years to life" for the richest in the world at the expense of high infant mortality, and life expectancies of around 60, for the majority of the world's peoples.

Romaine Rutnam, *Holder, ACT.*



INTERNATIONAL NEWS

WOMAN STERILIZED TO KEEP HER JOB

A woman underwent a tubal ligation in order to keep her job at the Kentucky, USA plant of Johnson Controls, Inc., a car battery manufacturer. Wanda Hensley who worked as a janitor at the factory in potentially hazardous lead areas was told that she couldn't work at the factory unless she had her tubes tied. In 1982, Johnson Controls Inc. adopted a foetal protection policy that excluded women capable of bearing children from jobs where lead readings reached unsafe levels. The company acted on medical evidence that lead contamination in pregnant women could lead to serious abnormalities in foetuses. Wanda Hensley had one daughter and was 34 when she had the sterilization operation. A move to another job within the factory would have meant a weekly decrease in her salary of US\$80 which she said would have caused financial hardship to her family. Her husband was about to lose his job at the time.

After a seven year legal battle however, the US Supreme Court outlawed the policy adopted by Johnson Controls Inc. as discriminatory. But this was little compensation for Wanda Hensley. She has since remarried and her sterilization by burning of the Fallopian is not considered to be reversible. Few women at the factory were prepared to acknowledge that they were prepared to trade fertility for job security because the company has officially denied asking women to be sterilized, even though this was implied in company policy. Joan Burtin, a lawyer with the American Civil Liberties Union said that the foetal protection policy required women workers, instead of their employers, to bear the burden of avoiding potential risks associated with hazardous workplace conditions.

Reported by Kate Legge, The Australian, March 11, 1991.

POLLUTION LINKED TO INFERTILITY

The Great Lakes pollution has been linked to infertility. A report by the International Joint Commission, the body which monitors shared waters has stated that living by the lakes is a "hazard to human health". Pollutants include polychlorinated biphenyls (PCBs) and organochlorine insecticides such as Dieldrin and DDT and are associated with neurobehavioural

effects in children, as well as potentially affecting human fertility. The report quotes from the Canadian Department of National Health and Welfare Study on the Great Lakes which found traces of toxic chemicals in the human reproductive tract and concluded that "This could be a factor contributing to the otherwise unexplained declines in the North American fertility rates". Andy Gilman, author of the study, while acknowledging that there is little evidence on the effects of chemicals on the human reproductive system insisted that the effects are clear to see, "If you have had those effects occurring consistently across five orders of animals, and one is mammals, there's enough information to know these contaminants pose a risk to health."

Reported by Penny Park, New Scientist, September 28, 1991.

RU486

The government of New Hampshire in the United States has passed legislation to allow testing of the "abortion pill" RU 486 by the French company Roussel-Uclaf f. California and New York, along with other States are contemplating such a decision.

New Scientist, 25 May 1991.

DID CHORIONIC VILLUS SAMPLING DAMAGE FOETUSES?

Doctors at the John Radcliffe Hospital in Oxford, England, have announced that they would not perform prenatal testing by chorionic villus sampling (CVS) on women before 10 weeks of pregnancy, after they found four foetuses with deformities to the jaw and limbs. A fifth foetus had a limb deformity. However other studies in the U.S. and Britain have found no more abnormalities than would be expected. Ian McKenzie from the John Radcliffe Hospital said that the timing of the test may have been important. Few centres perform the test before nine and a half weeks of pregnancy, and all of the five affected foetuses had been tested before this time.

Reported by Jeremy Webb, New Scientist, 23 March 1991.

WHITE HOUSE RECOMMENDS DEREGULATION OF BIOTECH

In the United States, a White House proposal to deregulate biotechnology has been criticised by ecologists, the EPA and the biotechnology industry itself. The proposal recommends that, unless there is an “unreasonable” risk, genetically engineered organisms should not be regulated by the government. Even when there are “unreasonable” risks the government should not get involved if there are alternative means to resolve such risks such as civil action through the legal system. You don’t have to watch L.A. Law to imagine the implications of this.

Reported by Dan Charles, New Scientist, 25 May 1991.

TEST FINDS “DEFECTS” IN UNFERTILIZED EGGS

Scientists in the U.S. have developed a method for testing a woman’s eggs prior to IVF. This method would circumvent the testing and disposal of embryos for women who carry “defective” genes. The researchers suggest that anti-abortionists will find this aspect of the test more acceptable. Apparently the researchers “thought of the idea when they were obtaining eggs from the ovaries of several women attempting IVF”. The method involves the extraction of DNA from the first polar body, a nodule containing half the eggs chromosomes, normally discarded during meiosis. Whilst the researchers have only used the method to detect the “mutation” that causes a rare “disorder”, alpha- 1-anti trypsin deficiency, it is suggested that this method could be used to detect other recessive “disorders”. One of the researchers, Yuri Verlinsky, recommends that it is only practical to use this method in IVF, and restricted to “couples” with a history of recessive “disorders”. He argues that this is an improvement upon the existing method of testing embryos, which usually require freezing and subsequently reduce the successful number of pregnancies.

Research on the extraction of DNA from sperm has been unsuccessful to date. It is suggested, however, that with recessive “disorders” (which require two “defective” chromosomes) “the worst thing that can happen is that the child is a carrier”.

Verlinsky and his colleagues at Illinois Medical Centre had the idea when they were obtaining eggs from the ovaries of several women who were undergoing IVF. Verlinsky then worked with a

couple who were both carriers for alpha-1-anti-trypsin deficiency, and selected one of the women’s eggs which had expelled the faulty gene with its polar body. The egg was fertilized and transferred to the woman’s uterus. The pregnancy failed, although Verlinsky said it was for other reasons. He still considered the diagnostic test to be a success.

Reported by Christopher Joyce, New Scientist, November 25, 1989.

PROHIBITION IS POSSIBLE

In March 1991, people of the city-state of Basle, Switzerland voted with a great majority to outlaw IVF and other reproductive technologies. The prohibition was enforced immediately and all IVF procedures were stopped. This was a significant victory for a vocal group of resisters to genetic and reproductive technologies. An appeal to the Bundesgericht (Supreme Court) has been launched by promoters of the technologies who claim that the prohibition is unconstitutional.

Reported by Renate Klein.

AMNESTY INTERNATIONAL WOMEN’S CAMPAIGNING NETWORK

Amnesty International is conducting a campaign against torture and sexual abuse of women in the Punjab in India. Away from the high profile political prisoners worldwide there exists a group who have suffered incredibly at the hands of authorities – women. Women are targeted for various reasons. They may be political activists themselves and arrested on that basis, or they may be arrested solely because of family connections. They are seen as easy targets by authorities anxious to gain information about their relatives’ activities. In the Punjab region since 1983, when armed Sikh opposition emerged demanding an independent Sikh state, many women were arrested and tortured solely because of family relations. Wives, sisters, mothers and daughters have all suffered at the hands of authorities. One 17 year old girl was arrested for no other reason than that her father was in jail. She was beaten, hung upside down and had chilli powder rubbed in her eyes. Later, several

policemen, all apparently drunk, took turns to rape her.

Women detainees face particularly horrific forms of abuse such as rape and sexual humiliation, inflicted on them by anyone from prison guards to military officers and police. Rape is an especially damaging form of abuse in cultures where the social taboo surrounding rape is such that women are reluctant to speak out about it. Pregnant women have miscarried after being punched and kicked, others have become pregnant as a result of rape and all have faced sexual humiliations of one kind or another intended to degrade them. In the Punjab, police have repeatedly frustrated attempts to bring those accused of violations to justice.

Amnesty International's Women's Network works to draw attention to the particular injustices suffered by women. In relation to the Punjab, they aim to raise awareness over the torture and rape of women, especially those arrested for family reasons. They intend to put pressure on the Indian authorities to investigate and prosecute those responsible for violations against women and they are pursuing links with women's organisations in India working for human rights.

Amnesty International needs your support and help. They want you to write letters for oppressed and persecuted women. Contact the office of Amnesty International for details, or if you cannot write, Amnesty International desperately needs your financial support to keep the hope alive for the persecuted and to stop the torture. Ring Margaret Trainor on (03) 427 7055 for more information or write to 14 Risley Street, Richmond, Victoria. 3121.



DID YOU WANT TO HAVE CHILDREN BUT COULDN'T - OR DIDN'T?

**If you fall into this category,
we'd appreciate the opportunity
to talk to you for a new book.**

We are two Melbourne women, ourselves involuntarily childless, who are writing a book about others who also wanted to be parents but, for a range of reasons, did not have a child.

There are a number of books about infertility around, written mainly from a medical point of view and aimed at those still hoping to have children. Our book has a much broader focus and will feature the stories of those who were unable to have children due to a variety of unresolved medical, physical, emotional, social or other circumstances. (We are excluding those who have adopted a child or brought up a step-child because this is a book looking at those for whom all parenting has been a missing factor in their lives.)

If you are a childless woman with - or who had - an unmet desire for a child we would appreciate the chance to meet with you to talk about your story. We are seeking women from a wide range of backgrounds, occupations, education levels, lifestyles and reasons for infertility (including lack of a partner). There is no upper age limit - in fact, we are particularly interested in older women. We will meet with you wherever mutually convenient and we respect your confidentiality.

The reason for undertaking this book is that we believe that being childless, even when it is not one's choice, need not be a barrier to a happy and fulfilled life. Documenting the accounts of women (and some men) who have worked through the grief process of infertility and gone on to satisfactory lives is of interest and value in itself. It will also be of immense help to infertile people who are at present unable to see that childlessness is not the end of the world.

If you do not want to tell us your full story, any comments or suggestions on the subject arising from your experiences or observations are welcome. Please pass on information about the project to any friends or relations whom you think might be interested in talking to us.

- If you would like to take part, we may be contacted as below.
Please do so as soon as possible.

**Book Project,
PO Box 248,
East Kew 3102**

Ph. 489 7748 (leave recorded message if unattended.)

September 1991