Foreword

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Abstract

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The birth of the first “test-tube baby,” the death of a couple who left frozen embryos, breakthroughs in prenatal and perinatal care, and similar developments since the 1960s have generated widespread public and professional debates over the new reproductive technologies. Until relatively recently, however, women’s voices and concerns were conspicuously absent from these debates.

The Project on Reproductive Laws for the 1990s began in 1985 under the aegis of the Women’s Rights Litigation Clinic and the Institute for Research on Women, both at Rutgers University with the goal of injecting women — as participants and as a group with interest to be considered — into the debates over reproductive law and policy. Two goals characterized the Project’s work: first, to generate discussion, and, where possible, consensus among those committed to reproductive autonomy and gender equality as to the best way to respond to the questions raised by reported advances in reproductive and neonatal technology and new modes of reproduction; and second, to ensure that those shaping reproductive law and policy appreciated the ramifications of these developments for gender equality.

To meet this twofold agenda, the Project convened a working group of 25 academics and activists who shared a common commitment to reproductive choice and gender equality to lay a theoretical foundation for Project proposals. At the same time, with the help of individual drafters, the Project produced model legislation and position papers in six areas: time limits on abortion; prenatal screening; fetus as patient; reproductive hazards in the workplace; interference with reproductive choice; and alternative modes of reproduction. Two publications have resulted from the Project’s work: a Briefing Handbook distributed to approximately 2500 policy-makers and advocacy groups in the fall and winter of 1988 and a scholarly book, Reproductive Laws for the 1990s, reviewed in this issue.

As Project Director, I am pleased that the Project has been able to

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contribute to exploring the implications of today’s reproductive modes and technologies. But this process of exploration is clearly one that must continue. Thus, I am even more pleased that the editors of the Nova Law Review have also joined in that process and that the Introduction written by the Project’s working group can introduce this issue.

Introduction*

Working Group of the Project on Reproductive Laws for the 1990s

Much of the media coverage of the new reproductive technologies—techniques like in vivo fertilization, embryo transfer, prenatal genetic screening, and fetal surgery—describes these scientific advances as major medical breakthroughs. Yet, it is important to assess technological impact in terms of its context, and who controls and deploys its use. A critical perspective on the new reproductive technologies reveals potential drawbacks as well as potential liberation.

American culture has a predilection for a quick fix, a seemingly simple, technological solution to complex social and personal problems. History holds many examples of new and seemingly innovative technologies that served to replicate and worsen existing social problems, rather than to transform them. Some medical “revolutions” quickly turn into disasters. X-rays, for example, were hailed right after World War II as a potent and positive tool in assessing problematic pregnancies, predicting the need for cesarean sections and diagnosing multiple births. Two decades later, British epidemiologists revealed the dramatic increase in childhood leukemia and other cancers that accompanied the use of X-rays in the first trimester of pregnancy.

Reproductive technologies and alternative modes of reproduction are being introduced into a society permeated by social and economic inequalities. These developments threaten to exacerbate present social and gender inequalities. They may divert resources from less exciting but more needed basic prenatal services and may focus attention exclusively on women, instead of women and men, in the effort to achieve optimal reproductive outcomes. Thus, while the new reproductive developments hold tremendous promise, there is reason for caution in evaluating their relative merits and dangers.

The members of the Project’s working group, united by their common commitment to reproductive freedom and gender equality, came together to assess these new technological developments and consider appropriate legislative and policy recommendations. The 25 participants, including lawyers, doctors, social scientists, and community ac-

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