REGULATING NEW PROCREATIVE TECHNOLOGIES:
THE EMERGENCE OF LEGISLATION IN TWO AUSTRALIAN STATES

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Introduction

New procreative or conceptive technologies have stimulated considerable public
debate and raised difficult social, ethical and policy dilemmas. Often legislation is presented
as a 'neutral' framework for resolving disputes or clarifying controversies regarding the
availability of in vitro fertilisation (IVF), donor gametes and embryo experimentation.
Activists and policy makers tend to view law as reflecting community values or concerns and
as arbitrating between diverse viewpoints or interests. As a form of social control, law
defines the kinds of experiments permitted and who should have access to the programs, and
attaches sanctions and penalties for non-compliance. Following this notion of social control is
a perception that law responds and reacts to rapid developments in medical science.

This paper examines the role of law in regulating the experimental and clinical
application of new procreative technologies. The focus is on the emergence of legislation in
Victoria and South Australia. Victoria was the first jurisdiction in the world to legislate in this
area in 1984 and South Australia followed in 1988. Western Australia passed legislation in

In contrast to views of law as either reflecting some kind of community consensus or as
an instrument manipulated by particular interests the paper conceptualises law as a contested
terrain or 'juridical field' (Bourdieu 1987). It asks: whose views and what values get
incorporated into law? The central argument is that the practical meaning or content of the law
emerges in the confrontation between diverse participants moved by competing, often hostile,
interests and concerns about the availability of the technologies and the meaning of human
personhood.

Religious organisations - notably their leaders - infertility groups, medical scientists,
right to life activists, feminists, bioethicists, lawyers, academics and other interested
individuals seek to have their world views translated into legal and administrative policy. All
these participants rely on bodies of knowledge and value commitments to advance their
perspectives and interpretations, to enhance their legitimacy, authority and power and to
denigrate or deny others. Given the lack of consensus, the law becomes a focus for the public
affirmation of certain social ideals and norms (Gusfield 1967, p. 177).

The Legislation

Following the recommendations of their committees of inquiry, Victoria and South
Australia enacted legislation regulating procreative technologies. The respective Bills were
introduced by Labor Governments. Both Acts specify criteria for participation in a
reproductive technology program. They require that a woman who undergoes the IVF
procedure be married or, in Victoria, 'living with a man as his wife on a bona fide domestic
basis, although not married to him' (The Infertility (Medical Procedures) Act 1984 s. 3(2)),
and in South Australia, 'have cohabited continuously as husband and wife for the preceding 5
years' (The Reproductive Technology Act 1988 s. 13(4)).

The Victorian Act makes in vitro fertilisation illegal except for the purposes of
implanting the embryo in a woman's uterus and attached a penalty of 100 penalty points
(calculated at $100 per point) or imprisonment for 4 years (s. 6(5)). The Act prohibits cloning,
surrogacy, and makes counselling and the couples' written consent to the carrying out of certain procedures mandatory. It specifies that donated gametes can only be used in cases of infertility or where it is 'reasonably established' that an 'undesirable' hereditary disorder could be transmitted. Donation is without payment, except for the reimbursement of any expenses incurred. The Act provides that only medical practitioners can carry out artificial insemination and IVF can only be offered by approved hospitals. It also deals with record keeping and the disclosure of non-identifying information to donors and patients. The Act prohibits embryo freezing except when carried out for the purposes of enabling the embryo to be implanted at a later date and requires the patient and her husband receive counselling from an approved counsellor. Finally, it establishes a Standing Review and Advisory Committee to advise the Health Minister on techniques for alleviating infertility and to approve experimental procedures.

In South Australia, the Reproductive Technology Act 1988 establishes a Council on Reproductive Technology and a system of licensing persons involved in 'artificial fertilisation'. The functions of this 11 member statutory body include the formulation and review of a code of ethical practice regarding artificial fertilisation procedures and experimentation with human reproductive material (s. 10(1)(a)). The legislation requires that this code: include prohibitions on embryo flushing; provide that any persons on whose behalf an embryo is stored must have the right to decide how the embryo is to be dealt with; restrict the storage of embryos to ten years; and that the culture of a human embryo outside the human body must be prohibited beyond the stage of development at which implantation would normally occur (s. 10(3)).

The South Australian Health Commission determines the conditions of and grants licenses to persons carrying out artificial fertilisation procedures with a $10,000 penalty for non-compliance. A license will be subject to a condition prohibiting research that may be detrimental to an embryo. Licenses also must contain a condition preventing the application of artificial fertilisation procedures except for the benefit of married couples where infertility is apparent or a risk of the transmission of a genetic defect exists. The Council also advises the Health Minister on the conditions of licenses authorising artificial fertilisation procedures, formulates license conditions dealing with research, and carries out and promotes research into infertility, including the social consequences of reproductive technology.

Despite the plethora of issues raised by new procreative technologies parliamentary debates on the proposed legislation crystallised around three major themes, namely (1) **The status of the embryo**, especially regarding experimentation, the existence of so-called 'spare' or 'surplus' embryos and their storage. The embryo became the focus for a discussion on when life begins, the essence of humanity, and the beginnings of a discourse of embryo or fetal rights; (2) **The constitution of the family**, the role of women, and the fate of 'conventional' conceptions of motherhood and maternity; and (3) **The role of medical science** which was linked to concerns about the fate of embryos if experimentation remained unregulated by legislation.

### The status of the embryo

In many respects the debates surrounding procreative arrangements parallel the abortion controversy. As the moral status of the embryo has always been ambiguous the abortion debate is not about 'facts' but about how to weigh, measure and assess facts and is a debate about personhood (Luker 1984, pp. 2-5). Opponents of abortion usually begin by proposing that since the embryo is an "unborn child" abortion is morally equivalent to murder. From this viewpoint the notion of 'personhood' - a metaphysical moral idea - is based on biology; the presence of a distinctly 'human' genetic make-up (Petchesky 1986, pp. 334-335). For those who accept abortion, the genetic makeup of the embryo means only that it has the capacity to become a child and therefore is in a different moral category from those entities that have already become persons.

The notion that embryos are morally equivalent to persons and have rights to protection from experiments causing their destruction emerged as a salient theme among legislators who
opposed both the clinical and experimental aspects of IVF programs, or who sought to limit their availability. One member of the Victorian Legislative Council (traditionally dominated by conservative views and political philosophies) stated:

The rights of the embryo must be protected and there must be limitations on what can and cannot be done in the name of medical science. When does life begin, medically and technically? People will always place their own interpretations on the question of when life begins. There appeared to be no doubt among medical practitioners that the process of life begins at the time of fertilisation. ... If the embryo is to be given a degree of rights, experimentation should not be permitted on embryos other than the normal level of examination required and carried out prior to implantation procedures (Legislative Council [Victoria] 11 October 1984, p. 744-745).

Several others expressed similar views illustrated by the following quotations:

The interests of the embryo must be paramount. They must prevail over the interests of science and society. ... I oppose experimentation where it is intrusive to the embryo, where the embryo is destroyed or harmed or where there is some inhibition in implantation as a result of the experimentation. ... I believe the production of surplus embryos is inconsistent with regard for the personhood of embryos and acceptance of the principle that persons must never be used as a means to an end (Legislative Council [Victoria] 11 October 1984, p. 759).

The community is dealing with the essence of humanity. The Waller committee described an embryo as an individual and genetically unique human entity. The question is what are the implications to the community of programmes that involve the tinkering with that individual and genetic human entity. ... To me the embryo is not just a potential human being; it is a human being with potential. ... the embryo must be respected as a human being (Legislative Council [Victoria] 11 October 1984, p. 755).

The conception of social and political rights expressed in these quotations is based on a premise of social personhood anchored only in biology. This position assumes that rights to personhood are ahistorical and immutable and that individuality is genetically determined. To talk about the embryo from a rights-based discourse "treats embryos as entities as disconnected from their source, as if women's bodies are not involved" (Rowland 1987, p. 179). The embryo is not viable; it cannot develop into a child unless it exists in a woman's uterus. The idea of the rights of an embryo and of 'fetal personhood' are relatively new, historically specific and culturally informed (Petchesky 1986, p. 329). Indeed, notions of personhood and inalienable rights are historically and culturally contingent. Liberal rights discourse separates the existence of rights from their attainment, the former being more valued. While laws have not recognised embryos as legal persons or accorded them the status of living children or adults, bans and limitations on embryo experimentation indicate their 'special' status.

In order to advance a view of embryos as possessing rights, legislators turned to medical or scientific evidence to provide 'objective' information. They sought to make their claims unnegotiable by buttressing them with scientific 'facts' rather than with 'unfalsifiable' religious beliefs. One parliamentarian stated:

In investigations that we carried out there appeared to be no real dispute as to when life commences medically; it commences at the time of fertilisation. Medical people from all sorts of fields told us that. However, some people adopt a different attitude on the question of when life commences. It might be fourteen days after fertilisation, it might be at the time of the forming of the primitive streak, it might be 21 days after fertilisation. People decide for themselves what moral attitude they take on embryos. Technically and medically, it appears that embryos have rights that need to be given some protection. I do not adopt that viewpoint from a religious base, but on the evidence we have accumulated we found that that was inevitable (Legislative Council [Victoria] 23 October 1984, p. 821)
Nevertheless, opponents of the IVF programs are ambivalent about medical science. They use such evidence to substantiate and shroud moral claims in an aura of scientific objectivity and demonstrable truth, but on the other hand, argue that medical scientists are engaged in experimentation which conflicts with the laws of nature and humanity. Secondly, opponents reject 'high tech' solutions to childlessness but the availability of medical technology making it possible to view fetuses in utero strengthens their arguments that the fetus is a baby (Petchesky 1987, pp. 271-278).

Opponents of IVF programs frequently slide from talking about 'biological life' to meaning 'human personhood'. Regarding the existence of 'spare' or 'excess' embryos, that are those not transferred to a woman's uterus for implantation for whatever reason, including problems associated with multiple pregnancies, one legislator commented:

I am not satisfied by the [legislative] provision that if those excess embryos are created, life support systems may be removed to permit those embryos to die. (Emphasis added; Legislative Council [Victoria] 11 October 1984, p. 764)

Other examples of this conflation of biology with humanity were evident in the debates, as the following statements illustrate:

If one establishes that, medically, life begins at the time of fertilisation, then it is a grave decision indeed to allow experimentation to take place from that time. The amendment that the National Party proposes to move ... will permit only examination of embryos and will not provide for any degree of experimentation (Legislative Council [Victoria] 11 October 1984, p. 748).

This is the most important Bill that has come before Parliament since I was elected to Parliament in 1979 because it deals with life itself. ... I cannot bring myself to vote for any form of proposed legislation that will allow experimentation on human beings or, as some people prefer to call embryos, "embryonic humans". (Legislative Assembly [Victoria] 2 November 1984, p. 1829).

From this perspective, embryo experimentation is tantamount to murder but morally worse than homicide because the embryo is innocent and helpless: the embryo represents humanity in its pure, God-given form, untainted by any sin. This position implies: "that the fetus is an object of preference - holier, closer to God, than women and their families" (Petchesky 1986, p. 333). Consequently, where women's rights and those assigned to the embryo conflict, the latter are more likely to prevail. It is not surprising, then that discussions of procreative technologies and women's reproductive autonomy did not constitute a major theme during the passage of the legislation.

Viewing the embryo as a distinct entity opens up the possibility of directly comparing IVF and abortion, indeed of seeing their availability as incompatible. Connections between abortion and IVF and the controversial nature of abortion politics in the United States resulted in the lack of federal funding for research connected with the clinical practice of IVF and with any studies using human embryos. "In vitro fertilisation had become a pariah to the politically dangerous issue of abortion" (Bonnicksen 1989, p. 81). Similarly, one member of the Victorian Parliament stated:

I am concerned that, although hundreds if thousands of dollars are being spent on the IVF programme to produce children, hundreds of thousands of dollars are being spent on abortions of fetuses that had every chance of developing into normal healthy human beings who would be of a tremendous advantage to society. ... one wonders where society is going (Legislative Assembly [Victoria] 2 November 1984, p. 1825).

And a member of the South Australian parliament declared:
One of the great concerns that I have is, on the one hand, an enormous number of abortions - 4000 plus in this state - are carried out while on the other hand we have this technology that can produce children for those who want them. I would have thought that, somewhere along the line, the social ethic would provide that those elements could come together so that we do not have to make it so difficult for people to have children, even if it is the children of others, and I am talking there about the adoption situation (Legislative Assembly [South Australia] 10 February 1988, p. 2663).

In response to these concerns, government supporters of the legislation focussed on infertility as a serious problem and emphasised the rights of infertile couples to have access to such programs, or at least to be able to have a choice. They adopted a liberal stance on the separation between public and private spheres, arguing that the state has no role to legislate on moral issues. They emphasised the 'treatment' aspects of the infertility programs not the experimental dimensions. One proponent of the legislation observed that:

When honourable members are talking about the problem of infertility, they are not simply talking about a handful of people; they are talking about the destructive impact such infertility can have on the lives of at least a quarter of a million Australian couples, approximately one in ten of all couples, ... those who want to delay this Bill and thereby threaten the continuation of the in vitro fertilisation programme in this State, should personally contact the four thousand couples who are currently being treated at the Epworth and Royal Women's hospitals (Legislative Council [Victoria] 18 April 1984, p. 2320).

The family

The second major theme deals with the constitution of 'the family', the preferred form being based on marriage with a 'conventional' middle-class and gendered division of labour. The nuclear family is advanced as the only desirable, relatively permanent and legitimate family form and thus called "the" family. In feminist eyes, however, such families have been instrumental in the creation and maintenance of women's oppression (Smart 1984, p. 10). The development and availability of procreative technologies provide an opportunity for attempts to stem the perceived demise of "traditional" family values and gender roles viewed as natural or timeless. The perception is that central functions of the family - sexuality and reproduction - are being shifted outside, thus debasing familial relations and threatening the family's existence.

These technologies, critics argue, threaten the sanctity of marriage and undermine natural or biological family relations. By supporting an IVF program one member of the Victorian parliament stated that: "The Government is attempting to break down traditional family values which have served society well for many centuries" (Legislative Council [Victoria] 23 October 1984, p. 812). Another spoke of:

[A] need to strengthen the family and also its status, ... instead of weakening it. There are those in the community who would like to see the traditional family structure destroyed; there are those who scoff at traditionally married couples; there are those in the community who look down on the woman who wants to make her life as a homemaker (Legislative Council [Victoria] 23 October 1984, p. 806).

Most of the debates revolved around the marital status of participants in IVF and artificial insemination (AI) programs; the assumption is that marriage is the basis of family life and a prerequisite for motherhood. Carol Smart (1987) suggests that the historical fixation with marriage really denotes a concern about fatherhood and paternity. Until recently, the relationship between men and children in common law jurisdictions was mediated by marriage not genetic ties. She writes:
It is *marriage* and not the blood tie that confers automatic paternity on men and creates a legal relationship between children and their fathers. Paternity was not dependent upon proof of fatherhood, only proof of marriage (Emphasis in original; 1987, p. 101).

According to one legislator:

The National Party [conservative and traditionally rural-based] does not support the principle of extending the right of becoming involved in the *in vitro* fertilisation programs to *de facto* couples and couples for whom there are questions about the long-term stability of their relationships. The National Party has taken a strong stand and intends to continue that stand on behalf of the legal family consisting of a married couple, that extending those rights to *de facto* couples and people living on a bona fide domestic basis downgrades what is perceived to be marriage between two people. ... We stand firmly for the family. It is important for the child that there be a stable and loving relationship between the parents [which the fact of legal marriage is assumed to provide]. That significant factor needs to be encouraged and developed (Legislative Council [Victoria] 11 October 1984, p. 750).

The converse of the attempt to reinforce particular family arrangements is the concern to restrict autonomous motherhood, the possibilities of which are enhanced by the availability of reproductive technologies. Ironically, the least technical of the conception methods - artificial insemination - is potentially the most threatening to this idealised and ahistorical conception of the family (Wikler & Wikler 1991, pp. 6-8). Single mother families deviate from "the" nuclear family, separate wifehood from motherhood as social relations, and are often publicly portrayed as socially and economically inadequate thereby requiring state intervention (Fineman 1991, pp. 958-959).

Moreover, the donation of gametes means that genetic ties between parents and 'their' children may not exist signalling to many the further erosion of the family. Accordingly, the only way to 'stem the tide' is to require marriage as a pre-requisite for participation in an IVF or artificial insemination program, thus enabling the appearance of a 'natural' or 'normal' family. The price to pay for the reward of children becomes conformity to the nuclear family ideal (Smart 1984, p. 100). Legislators recognised that not all households with children resemble that ideal type description, for example one stated:

Although that possibility of divorce or separation is a serious problem, ... if people are willing to commit themselves to the conventions of marriage, they are on the whole more likely to provide the environment we would want for the children produced for the *in vitro* fertilisation programs (Legislative Council [Victoria] 11 October 1984, pp. 766-67).

This view also was echoed by several legislators in South Australia:

I well appreciate that married couples can become divorced and that divorce is not uncommon; I well appreciate that marriage does not ensure a lifetime relationship in this day and age ... but I do believe that marriage at least is a commitment from two people that they are determined to do everything possible to live in a stable relationship, hopefully for a lifetime, at the time they make their vows. Whereas it would appear to me that a *de facto* couple do not have any such commitment, and there is no problem for either of them to walk out of that relationship at any time (House of Assembly [South Australia] 10 February 1988, p. 2651).

While this discussion is couched in gender neutral terms in practice they are referring to the necessity of women being married to their male partners, rather than the converse, because it is women who are the patients in the *in vitro* fertilisation programs, they are the ones who are being 'treated'. References to notions of commitment, becoming married for the good of the children, provision of appropriate child rearing environments all fit more with gendered assumptions of women and motherhood, for example:
The very fact that the parents are willing to sacrifice their personal *avant garde* view of appropriate relationships - of what suits them personally in their relationship, one with the other - is some evidence that they are willing to give what is necessary to the children. It is a much more testing and long-term business than just a passionate relationship between man and woman (Legislative Council [Victoria] 23 October 1984, p. 810).

Legislators rationalised restricting access to married couples in terms of cost. While it is true that IVF programs are expensive and in Australia part of the expense is met by taxpayers through Medibank - the national health scheme - it is to be questioned why marital status became the criterion of inclusion. The reason is a moral one. Legislators suggested that married couples are more deserving. In South Australia the Opposition asserted:

> It is our view that because this is an extremely expensive process and because there are people still waiting for *in vitro* fertilisation, that at this stage it should be available to married couples only, people who have made a commitment to one another and whose children will, as a result of that, have the protection of law (Legislative Council [South Australia] 20 October 1987, p. 1294).

Another opponent was more explicit in indicating fear of 'autonomous' motherhood, particularly of unmarried mothers becoming dependent on the welfare state. He suggested that having a child enables entitlement to apply for Commonwealth supporting parent benefits available to unmarried people with children (around ninety per cent of all recipients are women) (Department of Social Security 1989). He suggested:

> As a matter of principle, in fertilising unmarried people [that is, women], it would primarily be putting them in a position of being potential pensioners, as it were, or potentially drawing supporting parent benefits, and it does seem a strange thing for the society to do (Legislative Council [South Australia] 24 November 1987, p. 1967).

In both states the Labor Governments were not so concerned about the marriage requirement and emphasised the nature of the relationship rather than its legal type. Supporters of the legislation stressed such values as choice and privacy arguing that it should not be within the public sphere to specify a single family form. For example:

> My role is not one of moral theologian; my role is to acknowledge the realities of our time, the plurality of the society in which we live. We do not condemn couples which live in *de facto* relationships and have children (Legislative Council [South Australia] 24 November 1987, p. 1968).

If a couple is accepted into the program .. and comes through the battery of physical and psychological tests but those persons are not married and live in a *bona fide* domestic relationship, that should be it. They should be accepted into the program and allowed to take the chance of having a successful course of treatment, just as a married couple would be able to do so. By saying that, I am not downgrading the idea of traditional marriage, of religious marriage or of the nuclear family. They are fine concepts. It is simply that not everyone today wants to take part in a legal ceremony. Many couples prefer different ways of living together (Legislative Council [Victoria] 23 October 1984, p. 810).

While the governments in both states sought to discuss the quality of family relationships rather than the type, unmarried persons (as defined by the law) are excluded from participation in IVF programs in both states.

**Medical scientists and experimentation**
The third major theme that emerged in the debates relates to the concerns about the status of the embryo, namely the role of medical scientists and experimentation in the field of human conception. Opponents invoked spectres of mad scientists by referring to 'slippery slopes', 'Brave New Worlds', 'unscrupulous operators', human experimentation during Nazi Germany, and 'Dr Strangeloves'. The image projected is that of rapid changes in medical science with laws and other forms of social control lagging behind (Cowan 1985, p. 550).

Scientists have got too far ahead of the community and have put the community on a slippery path, and we know not where it will lead. ... It is an uncharted road. No one is sure where it will end. That is another reason for the programs being turned back. There are powerful reasons for putting the genie that the scientists have released back in the bottle. ... The argument is that if it works it should be used. I can think of certain gentlemen in history who committed terrible deeds in the name of practicality and because it was possible to do them. For instance it was possible to slaughter 6 million Jews. Because something is possible, it is not a reason for allowing it to happen. (Legislative Council [Victoria] 11 October 1984 pp. 755, 758, 759).

Once one goes down the path of arguing that we can allow embryos to be grown for seven, 14 or 28 days, the question arises as to where one draws the line. I think that the line ought to be drawn in a pretty restrictive way to ensure that we do not allow scientists, in particular, to take us as a community and a Parliament, by the nose and drag us into areas and questions of glass wombs, baby farms, testing of drugs on human embryos, and so forth (Legislative Council [South Australia] 4 November 1987, p. 1664).

Nevertheless, legislators sought to distinguish this spectre of medical research from the local IVF scientists. For example:

There have been a number of scientific and less than scientific reports about the possibilities of all sorts of other rather frightening things, trans-species fertilisation, the cross between the man and the ape; genetic engineering, to produce a child of a chosen physical and mental make-up; extracorporeal gestation, that is, the development of a human child entirely outside the body in some sort of glass jar; and the possibility of the bearing of children by men. If there is one thing that I can state with great confidence, it is that none of these things are done or have been contemplated in South Australia or indeed would ever be done by the many fine people that I know work in this field (Legislative Council [South Australia] 20 October 1987, p. 1296).

And another:

In discussions with Professor Carl Wood, he pointed out that there are a number of restrictions on widespread experimentation, among them being the hospitals' ethical committees and also the National Health and Medical Research Council. That is all well and good, and the normal ethics of the medical profession do come into both those organisations, but it is possible that experimentation or the desire for further experimentation will be accelerated in the university where people are seeking, perhaps, for honour or glory, to come up with a new procedure (Legislative Assembly [Victoria] 2 November 1984, p. 1815).

Despite the lack of discussion regarding women's rights or reproductive autonomy conservative opponents of the IVF programs relied on some feminist arguments to support their claims. They referred to the vulnerability of women and the lack of medical attention to the causes of infertility. For example:

One area I wish to address is the way in which the programs act on the women who participate in it. Strong views have been expressed that the programmes use women, in the bad sense of the word. Dr Robin Rowland, a social psychologist who was involved in an IVF programme [in an advisory capacity], withdrew from it because she was concerned about what she saw as reprehensible techniques. ... I said before that
scientists had put society on a slippery slope and that we do not know where it will lead. Some predictions have been made about where it will lead. I refer the House to a book entitled *Test Tube Women* ... I recommend that book .. as giving very serious food for thought on these issues (Legislative Council [Victoria] 11 October 1984, pp. 756-7).

The idea of protection runs heavily throughout the "profamily" and abortion literatures - protection not only of fetuses and minors but of adult women, who are meant to remain dependent on husbands (Petchesky 1986, p. 267). One parliamentarian commented:

So far as the danger for women is concerned, the danger is the exploitation of their desperate desire to have children. ... young women and girls in the community should be brought up these days with less emphasis on the overwhelming necessity for women to be fertile. Woman [sic] should not grow up to believe they are incomplete and that there is no worth-while life for them if they cannot have children. ... many women seeking the service of an in vitro fertilisation program are desperate. Indeed, some would say only women who are close to desperation would undergo the pains and stresses of the programme. These people are clearly in danger of being exploited, to use what is perhaps an emotive word, or being used by excessively single-minded scientists who have, in the past, I am told, given the impression that they will put couples to the bottom of the queue if they ask questions, or that they will simply not be put on the program. ... Honourable members have a duty to protect the women who might find themselves being forced to do things that they may regret because of their desperation to have children (Legislative Council [Victoria] 11 October 1984, p. 767).

Arguments relating to women's alleged vulnerability are not used to enhance reproductive rights and autonomy, but to acknowledge and strengthen the role of the state in protecting women.

**Conclusion**

This paper has taken a different approach to many discussions of the new procreative technologies. It does not argue for the benefit or harm of such programs but aims to demonstrate the ways in which various world views or arguments get incorporated into law. It documents the nature of the debates and identifies links between the immediate debates and broader issues regarding the meaning of parenthood, especially motherhood, the role of women, the view of medical science, and the constitution of the family. Law is neither a residue of collective sentiment or so-called community values nor does it unequivocally reflect one point of view of set of interests. Rather, law is a contested terrain; a site of struggle where various groups seek to have their interests and worldviews regarding reproduction, personhood and the status of women legitimated.

**References**


