

EMBRYONIC POLICIES: THE STUNTED DEVELOPMENT OF IN VITRO
FERTILIZATION IN THE UNITED STATES, 1975-1992

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Abstract

The federal government's failure to fund research on *in vitro* fertilization has had an important legacy and significant consequences in the United States. Due to the dismantling of the Ethics Advisory Board in 1980, no government funding was provided for research for in vitro fertilization (IVF), embryo transfer (ET), and gamete intra-fallopian transfer (GIFT). The lack of government funding, regulation, and involvement has resulted in the false advertising of higher success rates to lure patients into the infertility specialists' offices. In their desperation to have children, consumers of such medical technologies paid exorbitant fees that often remained uncovered by insurance companies. The federal government enacted legislation in 1992 attempting to alleviate some of the aspects of exploitation of the consumer-patient. The government's recognition of the importance of such procedures was hit and miss, though, much like the reproductive technology itself. The legacy is one that has resulted in American citizens who now turn to developing countries such as Israel and India, where the treatment is drastically cheaper and often more effective.

I attempt to explain the federal government's response to New Reproductive Technologies (NRTs), beginning with *in vitro* fertilization, thus exploring why and how this debate has inextricably been linked to the ongoing abortion debate. My research questions include: How was IVF developed? How did policymakers determine that there should be a moratorium placed on federal funding for IVF research? Why, at this particular time, was the federal government afraid of endorsing IVF? What were the main concerns of policymakers in regards to IVF technology? How did this debate unfold? The conclusions drawn will demonstrate one aspect of the interesting political culture of the late 1970s and 1980s, during which the decisions made at the federal level resulted in the stunted development of IVF and other reproductive technologies in the United States.

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Introduction

“Just a few years ago no one would have predicted the hormone treatments that are nowadays so often successful, and conception in a laboratory dish was the stuff of science fiction. These treatments became reality because science--as it so often does--robbed nature of some of its secrets. Doubtless, science will continue to unravel the mysteries of reproduction. And with each mystery solved, more couples will know the joy and fulfillment of bearing children.”¹

-Journalist Matt Clark in “Infertility: New Cures, New Hope,” 1982

In 1978, the birth of Louise Brown rocked the world. As the first “test-tube baby,” her naissance sent shock waves through scientific, technological, and medical communities. Perhaps more importantly, the method of her conception gave hope to the estimated 3 million Americans struggling with infertility.² Infertility has afflicted human beings since long before biblical times, and attempts to treat infertility have been and continue to be controversial. Perhaps no infertility treatment has been quite as contested as *in vitro* fertilization (IVF) primarily because, by virtue of its technique, opponents argue that the procedure recklessly creates and destroys life. Exactly how this controversy played out in the policy arena and how government inaction shaped the development of IVF and its shift from the world of science fiction to the realm of popular culture is the focus of this thesis.

While many historians have written about the history of birth control and contraceptives in America, few have studied the other side of family planning: infertility and infecundity.³ Scholars’ focus on contraception follows from the prohibited nature of

¹ Matt Clark, et al., “Infertility: New Cures, New Hope,” *Newsweek* (December 6, 1982): 110.

² W.D. Mosher and W.F. Pratt, “Fecundity, Infertility, and Reproductive Health in the United States, 1982,” *Vital and Health Statistics* 23 no. 14 (Washington D.C.: U.S. Government Printing Office): 10

³ Notable scholars who have studied contraception and abortion include but are not limited to: Linda Gordon, *Woman’s Body, Woman’s Right* (New York: Grossman Publishers, 1976); Donald Critchlow, *Intended Consequences: Birth Control, Abortion, and the Federal Government in Modern America* (University Park, Pennsylvania: The Pennsylvania State University Press, 1996); David Garrow, *Liberty and Sexuality: The Right to Privacy and the Making of Roe v. Wade* (New York: Macmillan, 1994); David

its genesis and use, as the Catholic Church and the American government alike railed against women's attempt to limit their progeny. Women have identified the availability of contraception as necessary for a woman's control over her body, and their fight for birth control mirrored their struggle for self-actualization and respect. Second wave feminists who fought for contraception even as they initiated the field of women's history have made the story of contraception a sexy, enticing narrative to investigate and share.

Many historians and scholars have focused on women's struggle for contraception, failing to realize that the struggle against infertility is also a stirring account that helps us to understand more fully the social construction of fatherhood as well as motherhood, families, technology, and medicine. The denunciations and disapproval that made the use of birth control forbidden, and thus good fodder for historical study, also appeared in the debate over IVF and other forms of assisted reproduction. For example, the Catholic Church disavowed the use of contraception, even as it decried IVF and other reproductive technologies.⁴ And, while the government once outlawed birth control, society gradually and incrementally accepted or acknowledged its use. The government first made contraception a legal option for married couples, then made it available for virtually anyone to purchase, and finally, offered it at extremely low costs in a clinical setting. While former President Dwight D. Eisenhower served as honorary chairman for Planned Parenthood in 1964 and the

M. Kennedy, *Birth Control in America; The Career of Margaret Sanger* (New Haven: Yale University Press, 1970); Carcle R. McCann, *Birth Control Politics, 1916-1945* (Ithaca: Cornell University Press, 1994); Rosemary Nossiff, *Before Roe: Abortion Policy in the States* (Philadelphia: Temple University Press, 2001); James Reed *From Private Vice to Public Virtue* (Princeton: Princeton University Press, 1978); Thomas M. Shapiro *Population Control Politics: Women, Sterilization, and Reproductive Choice* (Philadelphia: Temple University, 1985); Andrea Tone *Devices and Desires: A History of Contraceptives in America* (New York: Hill and Wang, 2001); Elizabeth Siegel Watkins *On the Pill: A Social History of Oral Contraceptives 1950-1970* (Baltimore: The Johns Hopkins University Press).

⁴ Anna Quindlen, "Baby Craving: Facing Widespread Infertility, A Generation Presses the Limits of Medicine and Morality," *Life* 10 no. 6 (June 1987): 25.

Department of Health, Education, and Welfare (DHEW) under Lyndon B. Johnson began to sponsor family planning programs in the 1960s, debates still rage regarding governmental funding for research on embryos.⁵ Reproductive technologies such as IVF relied on embryonic research for their development, and thus were indirectly implicated in these policy debates. Therefore, although the Federal government became more proactive in the field of assisted reproduction by passing a consumer protection act involving IVF in 1992, it has yet to fund research in the area of reproductive technologies. This moratorium has left the world's foremost biomedical research institution, the National Institutes of Health (NIH), far behind other countries in this technological contest.⁶ The Federal government has made some concessions to the infertile American population via the consumer protection act by imposing standards and requirements for advertising, but it has refused to address the issue of infertility fully.

Few scholars have published historical works focusing on the problem of infertility in America. Elaine Tyler May and Margaret Marsh and Wanda Ronner are among the few to tackle this subject, and both of their works tell the story of childlessness in the United States prior to the twenty-first century. Because of the broad scope of these studies, the authors only consider reproductive technologies like IVF, ET, and GIFT at the end of their studies. In her 1995 publication, *Barren in the Promised Land*, May concentrates on the human face of infertility, showing the devastation that the involuntarily childless have faced.⁷ She argues that concern over infertility is not unique

⁵ Watkins, 68.

⁶ Testimony of Gary B. Ellis. United States Congress. House. Committee on Small Business. Subcommittee on Regulation of Business Opportunities. *Consumer Protection Issues Involving In Vitro Fertilization Clinics*. 100th Cong., 2nd sess., (June 1, 1989): 162.

⁷ Elaine Tyler May, *Barren in the Promised Land: Childless Americans and the Pursuit of Happiness* (New York: Basic Books, 1995).

for late twentieth century Americans, but rather, has caused anxiety throughout American history. She traces her history from the colonial period when many believed infertility to be a sign of sin to the twentieth century when pronatalism reemerged and the business of infertility treatment boomed. Following the different expectations of motherhood and fertility during this long sweep of time, May argues that responses to infertility have remained largely negative as if impervious to other changes in American culture. To elucidate and understand the intense feelings May associates with infertility, she also explores the psychological and social ramifications of the inability to perform what many believe to be the most basic human function: reproduction.

On the other hand, Marsh and Ronner focus more on the scientific aspects of the treatments of infertility in *The Empty Cradle: Infertility in America from the Colonial Times to the Present*, published in 1996⁸. Marsh and Ronner argue that cultural changes, such as the secularization of American society, the role of women in the United States, and the increasing medicalization of society, rather than scientific or technological changes, have increasingly brought infertile patients to clinics. Even so, the authors trace the technologies of assisted reproduction through American history, as the practice evolved from the very basic artificial insemination to GIFT, showing that the new reproductive technologies are not the first controversial infertility treatments.

Although these books provide insight into the complicated issue of infertility, including its stigma and treatment, neither book discusses the policymaking discussions and decisions central to understanding not only the treatments and perceptions of

⁸ Margaret Marsh and Wanda Ronner, *The Empty Cradle: Infertility in America from Colonial Times to the Present* (Baltimore: The Johns Hopkins University Press, 1996).

infertility, but also the government's role in shaping reproductive technologies and their development and distribution.

One scholar who does, however, study IVF in the United States is political scientist Andrea Bonnickson, whose scholarship focuses on social policies for assisted reproduction, the human embryo, stem cell research, and human cloning. Her book *In Vitro Fertilization: Building Policy from Laboratories to Legislatures* has been crucial to this study. Bonnickson examines public policy, noting the absence of federal-level policies to monitor the new technology. She argues that the Federal government should regulate IVF, no longer leaving the field to self-regulation. While her book focuses on IVF and federal policy, Bonnickson's standpoint is that of a contemporary observer of government policies, thus she did not analyze the historical context for the policy outcomes that she assessed.

This thesis examines the history of societal *and* governmental responses to the new reproductive technologies of the late 1970s and early 1980s to understand how and why such desperately desired technologies developed in an erratic and incomplete manner.

The Reproductive System and IVF

Before assessing the institutional role of the government and other organizations, though, one must first have a basic knowledge of the reproductive system and the technology that made the IVF technique possible. In natural reproduction, the ovulated oocyte, or egg, is fertilized by the sperm in the Fallopian tubes, which lie between the uterus and the ovaries. After fertilization, the fertilized egg stays inside the tube where a number of cell

divisions occur. After three or four days, the embryo moves into the uterus, and in a process known as implantation, attaches itself into the uterine wall. The embryo continues to grow in its mother's uterus, generally for around nine months, whereupon the baby is born.⁹ Obstructions of the Fallopian tubes often make such natural reproduction impossible, but through IVF, doctors and researchers can bypass such problems by creating an environment in a Petri dish that emulates the Fallopian tubes.

Reproducing the environment of the Fallopian tubes, however, proved more difficult than many scientists expected. The task of copying the cultures that foster reproduction in a Petri dish was trying for scientists, partly because the upper tract of the female reproductive organs was inaccessible. When medical researchers had gained access to these cultures, they were disappointed to find that the fluid changed to prepare for implantation.¹⁰ While the exact composition of this culture remained a mystery through the early years of IVF's popularity and acceptance, by 1978 scientists were able to create a similar environment to that of the upper Fallopian tubes that would facilitate the sperm/egg union, making IVF possible.

The IVF procedure is a complicated process that requires a combination of the infertility specialist's skill and the patient's cooperation. After determining that IVF is the appropriate treatment for an infertile couple, the doctors determine when the female is ovulating. Once ovulation occurs, the doctors use laparoscopic procedures to retrieve the oocytes from the ovaries. The eggs are then placed in a Petri dish—not a test tube—with

⁹ Testimony of Joseph D. Schulman, M.D. United States Congress. House. Committee on Interstate and Foreign Commerce. Subcommittee on Health and the Environment. *In Vitro Fertilization—Oversight* 95th Cong., 2nd sess. (August 4, 1978):8.

¹⁰ J.B. Black, T.K. Thompson, and G.W. Patton, Jr., "Culture Techniques for IVF/ET" in Fredericks, Christopher M., John D. Paulson, and Alan H. DeCherney, eds. *Foundations of Fertilization In Vitro*. (New York: Hemisphere Publishing Corporation, 1987), 269.

the sperm. If fertilization occurs (usually several hours later), the embryos are then transferred to another dish containing a different growth solution. After several days, the embryo is inserted into the woman's uterus via an opening in the cervix, where implantation will hopefully occur.

Scientists and researchers attempted IVF unsuccessfully for decades before Louise Brown's birth in 1978. While such efforts began in the 1930s, the ability to fertilize human ova outside the human body was first reported in 1944 when Harvard physician John Rock (who was also critical in the development of "The Pill"), and his assistant Miriam Menkin, announced that they had fertilized four human eggs *in vitro*.¹¹ However, this endeavor was never taken seriously by the scientific community, and Rock and Menkin never replicated what they claimed to be their successful creation of human life *in vitro*. Indeed, the first well-documented case of IVF with human gametes was not reported until a few decades later, when, in 1970, British physicians R.G. Edwards, P.C. Steptoe, and J.M. Purdy proved that they had fertilized human ova outside the female body. It then took Edwards and Steptoe eight more years of dedicated research to realize their ultimate goal of delivering a "test-tube baby" in 1978.¹²

While IVF is still a relatively new innovation and technology, rhetoric surrounding the importance of motherhood and raising children dated back to the Revolutionary War. From its inception, the United States government recognized the importance of "Republican Motherhood" for creating strong and responsible citizens. The sphere of domesticity shadowed women throughout the nineteenth century and into the twentieth, morphing in response to other societal changes but carrying with it certain

¹¹ Marsh and Ronner, 3.

¹² P.C. Edwards and R.G. Steptoe, "Birth after the Reimplantation of a Human Embryo," *Lancet* 8085 vol. 2 (August 1978): 366.

identifiable characteristics such as the importance of motherhood. America needed the *right* mothers to breed good, patriotic citizens to ensure the future of the republic.¹³

Eventually ideas of motherhood took on eugenic tones when the government and social reformers alike encouraged upper- and middle-class white Americans to have children to outnumber the prolific undesirables—whether they were new immigrants, criminals, or the mentally ill.¹⁴

Americans emphasized good motherhood throughout American history, although the rhetoric found in prescriptive literature articulated different notions of what constituted effective mothering; so too ideas about infertility have evolved. In the religious societies of colonial America, attempting to tamper with reproduction posed unacceptable challenges to God's will.¹⁵ In theory, both infertility treatments and the practice of family limitation were considered shameful and sinful at this time.

Nevertheless, Historian Cornelia Hughes Dayton argues that until the 1800s, abortion was acceptable before quickening, showing that women and men often covered up abortions because they wanted to conceal their premarital indiscretion, not the destruction of a fetus or the hindrance of "nature's proper course."¹⁶ By the end of the nineteenth century, physicians attempted to alleviate some feminine problems, as the medical field professionalized and doctors such as J. Marion Sims experimented in the new field of

¹³ Linda Kerber, *The Republican Mother and the Woman Citizen: Contradictions and Choices in Revolutionary America* (New York: Oxford University Press, 2000); Mary Beth Norton, *Founding Mothers and Fathers: Gendered Power and the Forming of American Society* (New York: A.A. Knopf, 1996); Ruth Feldstein, *Motherhood in Black and White: Race and Sex in American Liberalism, 1930-1965* (Ithaca: Cornell University Press, 2000).

¹⁴ Daniel J. Kevles, *In the Name of Eugenics: Genetics and the Uses of Human Heredity* (New York: Knopf, 1985), 90-96.

¹⁵ May, 27.

¹⁶ Cornelia Hughes Dayton "Taking the Trade: Abortion and Gender Relations in an Eighteenth-Century New England Village," *William and Mary Quarterly* 48 no. 1 (1991): 23.

gynecology.¹⁷ Doctors at this time attempted to treat infertility through artificial insemination, but also through more experimental techniques like rearranging and supporting reproductive organs with mechanical devices, and making incisions in the cervix to remove obstructions.¹⁸ Despite these new innovations in infertility treatment, women did not rush to their physicians for treatments, supporting Marsh and Ronner's argument that cultural acceptance of technology is a crucial impetus for action regardless of advances in science. This phenomenon was particularly apparent during the height of the baby boom in the 1950s when technology remained static, but existing clinics grew and new ones sprouted at a rapid pace. The "unquestioning public faith in the power of science and technology" coupled with social pressures to have children during the post-World War II era supported the booming industry.¹⁹

Ironically the Baby Boom generation would come to challenge the dictates of American society—including the intense pronatalism—that produced it. The Baby Boom generation grew up in a quickly changing society that witnessed during the 1960s the coming of age of the Civil Rights movement, the Mexican-American movement, the Gay Liberation Movement, and most importantly for the population trends in America, the Women's Liberation Movement. Many Baby Boomers also revolted against the norms that had led to their very existence: the importance and value of having children. During the 1970s, the Childfree Movement emerged, illustrating a radical break from the pro-motherhood trends that had prevailed in American history.²⁰

¹⁷ May, 43-44.

¹⁸ *Ibid.*

¹⁹ Marsh and Ronner, 3.

²⁰ May, 213.

But perhaps the Population Control Movement beginning in the 1960s set the precedent for contemplating the negative effects of reproduction. This movement began as the world population seemed to be exploding during the post-World War II era. Population controllers agreed with the Neo-Malthusian doctrine, which stated that by reducing mortality rates, medical advancements resulted in a population that was not balanced with the natural world.²¹ To rectify this imbalance, leaders such as John D. Rockefeller III lobbied the Federal government and worked in close connection with the National Academy of Science, and eventually President Richard Nixon, to make contraception more available. It is highly likely that the Childfree Movement of the 1970s was influenced by the Population Control Movement, which had gained some success in the U.S. despite being denounced by the Catholic Church for approving abortion.²² But the Population Control Movement was also connected to birth control and family planning, so much so that historian Linda Gordon argued that the terms could be used “interchangeably” in the 1960s.²³ The Population Control Movement paired with advancements in technology that created contraceptive successes helped to make the Childfree Movement of the 1970s a possibility. While the voluntarily childless population constituted a minority of Americans at about sixteen percent of women aged thirty to thirty-four in 1976, they nevertheless represented a remarkable break from earlier family practices and norms.²⁴ The establishment of an association for those who

²¹ Donald T. Critchlow, ed., *The Politics of Abortion and Birth Control in Historical Perspective* (University Park, Pennsylvania: The Pennsylvania State University Press, 1996), 8.

²² *Ibid*, 8-14.

²³ Gordon, *The Moral Property of Women: A History of Birth Control Politics in America* (Urbana: University of Illinois Press, 1974), 280.

²⁴ May, 182.

wished to remain childless, the Childfree Network, demonstrates the extent to which America's childless population represented a degree of social deviance.²⁵

On the heels of the childfree movement of the 1970s, however, the 1980s witnessed a resurgence of pronatalism, and in this socio-cultural environment, reproductive technologies began to emerge. By the 1970s, artificial insemination was a relatively well-established procedure. Having been utilized for over one hundred years, it could hardly be considered a technology because, put crudely, "anyone with a turkey baster and a willing volunteer can do it."²⁶ A gynecologist who compared the procedure to IVF, wrote that "the simplicity of artificial insemination by donor places this procedure within the reach of even the layman, and the potential dangers to society from misapplication of donor insemination require very little imagination."²⁷ But the crudest technologies of assisted reproduction met opposition well into the twentieth century. Artificial insemination first disconnected reproduction from sexual intercourse by introducing semen into the oviduct or uterus without sexual contact. Artificial insemination by donor (AID) challenged the myth that infertility was a woman's problem by recognizing that infertility could originate with the male as well as the female, and doctors realized that immotile or insufficient sperm could cause infertility.²⁸

From Pronatalism to the Opposition: The Federal Government and Society

²⁵ *Ibid.*

²⁶ *Ibid.*, 3.

²⁷ Edward E. Wallach, "In Vitro Fertilization and Embryo Transfer in 1982—Random Thoughts," *Fertility and Sterility* 36 no. 6 (Dec. 1982): 657.

²⁸ Lori B. Andrews, *New Conceptions: A Consumer's Guide to the Newest Infertility Treatments, Including In Vitro Fertilization, Artificial Insemination, and Surrogate Motherhood* (New York: St. Martin's Press, 1984), 21 and 49.

I begin this thesis by examining the political debates that surrounded the Federal government's decision to withhold federal funding for IVF research. Investigating how and why these debates were tied to the war over abortion that preceded the governmental discussion of IVF is crucial to understanding why policymakers approached IVF warily. I also explore the implications of this connection for the development of IVF in the United States and the ways in which infertile Americans carried the burden of this particular policy decision. I argue that because the government failed to fund IVF research, in effect, condemning this research to the private realm, infertile Americans have paid a high price financially as well as emotionally.

Then, in Chapter 2, I look for the roots of opposition to IVF technology. Once again, I trace resistance to IVF through its correlation to abortion. I examine the source of this correlation and the connection between the two issues before moving on to explore opposition from the Catholic Church, also related to the abortion issue. Radical feminists too had a stake in denying forms of assisted reproduction such as IVF, which they considered a form of torture inflicted by a paternalistic society that dictated women's reproductive capacities. However, I contend that while assisted reproduction was painful for infertile women on numerous levels, IVF patients exercised agency; they were not mere victims of their fertility specialists, husbands, or society.

After examining the policy debates that raged over the moral decision to accept or decline the application of assisted reproduction in the United States, I look at different factors that contributed to labeling the 1980s a "pronatalist" decade. I then question how this pronatalism affected infertile Americans and the *in vitro* fertilization field. I explore the resurgence in pronatalism, asking why it was suddenly "in vogue" to have children

again. To answer this question, I turn to popular magazines of the decade including *Time*, *Newsweek*, *Mademoiselle*, *Vogue*, *People*, and many others. Finding a number of articles that supported the “New Baby Bloom,” and pointed to the “Baby Craving” that American women experienced, I discovered that this return to pronatalism resulted from the backlash to the feminist movement and encouragement from a conservative Federal government. This pronatalism fostered a society in which IVF, as a viable route to motherhood, became more accepted. Rather than challenging its morality as the Ethics Advisory Board (EAB) and Federal government had previously done, members of the mainstream media extolled reproductive technology.

I conclude by discussing the Consumer Protection Act of 1992 that policymakers passed in an attempt to correct some of the problems in the infertility treatment industry. Some doctors had misled their patients by, for example, suggesting IVF when other treatments may have worked and advertising false success rates. The field was largely unregulated, and gynecologists who attended weekend seminars on infertility could call themselves “specialists” despite their lack of specific knowledge or experience. The Consumer Protection Act of 1992 attempted to rectify some of the problems surrounding the development of IVF in the United States, but its legacy has been mixed. Discussing some of these unresolved issues, a contemporary magazine reported more and more infertile American women who resort to taking “vacations” to developing countries where they undergo IVF at cheaper prices with greater success rates.²⁹

The federal government’s failure to fund research on *in vitro* fertilization has left an important legacy for infertile Americans, and, more broadly, American medicine and science. The new secretary of the Department of Health, Education, and Welfare

²⁹ Brian Alexander, *Glamour* (May 2005): 116-122.

(DHEW), Patricia Harris, dismantled the Ethics Advisory Board in 1980 because it had declared IVF an ethically acceptable, if contentious, avenue for research. Without the EAB to decide the fate of controversial ethical research endeavors such as IVF, no government funding was provided for research for *in vitro* fertilization (IVF), embryo transfer (ET), and gamete intra-fallopian transfer (GIFT). The lack of government funding, regulation, and involvement permitted false advertising of higher success rates to lure patients into the offices of infertility specialists. In their desperation to have children, consumers of such medical technologies paid exorbitant fees that usually remained uncovered by insurance companies. Attempting to alleviate some of the exploitation of the consumer/patient, the federal government enacted legislation in 1992. The government's recognition of the importance of such procedures was hit and miss, though, much like the reproductive technology itself. Following Louise Brown's birth, American policymakers began to address the ethical and moral implications of the technology that produced her.

Chapter 1: The Institutional Response to *In Vitro* Fertilization: The Federal Government and the American Fertility Society

“In vitro fertilization and embryo transfer should not be allowed by medical policy or public policy in the United States—not now, nor ever.”¹
 -Princeton theologian and bioethicist Paul Ramsey, 1979

The realization of British doctors Robert Edwards and Patrick Steptoe’s goal of creating human life via IVF in 1978 spawned a flurry of activity on the other side of the Atlantic, and many American scientists and doctors yearned to be involved in this field of research.² However, the Federal government placed a moratorium on research on human embryos in 1975, thus limiting the amount of work that could be done with IVF. In 1978, the newly created Ethics Advisory Board (EAB) under the Department of Health, Education, and Welfare’s (DHEW) Secretary Joseph Califano responded to the requests of doctors, scientists, and the infertile that this sort of reproductive technology be embraced in the United States as it had been in England and Australia.³

As is often the case with government advisory boards, the EAB evolved from a previous entity—an Ethical Advisory Board of scientists and bioethicists, charged by Congress with examining ethical issues arising from the 1973 *Roe v. Wade* Supreme Court ruling that legalized abortion. In 1973, the Subcommittee on Health and the Environment held hearings related to the protection of human subjects, and deferred to a departmental study group of experts in the fields of life sciences and ethics. The study group recommended that no research be approved that involved the implantation of

¹ Ethics Advisory Board. Department of Health, Education, and Welfare, *Report and Conclusions: HEW Support of Research Involving Human In Vitro Fertilization and Embryo Transfer*, May 4, 1979, 97.

² P.C. Edwards and R.G. Steptoe, “Birth After the Reimplantation of a Human Embryo,” *Lancet* 8085 vol. 2 (August 1978): 366.

³ Ethics Advisory Board. Department of Health, Education, and Welfare, *Report and Conclusions: HEW Support of Research Involving Human In Vitro Fertilization and Embryo Transfer*, May 4, 1979.

human ova that had been fertilized *in vitro*; although such a feat had not yet been accomplished at this time. It did, however, allow the continuation of research on subhuman primates, as the members of the group believed that such studies could demonstrate the safety of the technique for human purposes.⁴

In 1975, Congress accepted the study group's advice and imposed a moratorium on fetal research. The regulation stated that, "No application or proposal involving *in vitro* fertilization may be funded by the Department or any component thereof until the application or proposal has been reviewed by the Ethical Advisory Board and the Board has ordered advice to its acceptability from an ethical standpoint."⁵ Thus, the first Ethical Advisory Board was created in 1976 under DHEW Secretary David Mathews to decide whether the moratorium should be lifted.⁶

DHEW Secretary Califano re-created the Ethics Advisory Board (not to be confused with the previous *Ethical* Advisory Board) in 1978, and charged member bioethicists with deciding the social implications of Louise Brown's conception and IVF procedure and techniques in general. The EAB declared research in this area acceptable, or more accurately, "ethically defensible but still legitimately controverted."⁷ The Ethics Advisory Board had reservations regarding this line of research, and its members were particularly cautious about the moral status of the embryo, the safety and efficacy of IVF procedures, the potential long range adverse effects of the research, and the appropriateness of Departmental support. However, the birth of Louise Brown—a

⁴United States. Congress. House. Committee on Interstate and Foreign Commerce. Subcommittee on Health and the Environment, *In Vitro Fertilization, Oversight*, 95th Cong., 2nd sess., August 4, 1978, 93.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ Ethics Advisory Board. Department of Health, Education, and Welfare, *Report and Conclusions: HEW Support of Research Involving Human In Vitro Fertilization and Embryo Transfer*, May 4, 1979, 103.

normal, healthy child—after the application of this procedure undoubtedly eased the board members’ minds about its possible dangers and outcomes. This success undoubtedly encouraged the EAB to amend its first judgment about the propriety of using human subjects. The board concluded that DHEW should consider support for such research “in order to obtain a better understanding of the process of fertilization, implantation, and embryo development, to assess the risks to both mother and offspring associated with such procedures, and to improve the efficacy of the procedure.”⁸

The EAB’s Dr. Joseph Schulman, who acted as the Chief of the Human Biochemical and Developmental Genetics section, raised some interesting points in favor of IVF research. First, Schulman noted that each year that the moratorium continued for IVF research, more couples facing permanent infertility watched their window of opportunity close. Then Schulman posited that whether or not the United States investigated IVF technologies, other countries would continue to do so. Inaction in the United States would lead to a monopoly over the treatment’s development in other countries. While he spoke to the fears of missed opportunity due to the moratorium, he also responded to societal fears of the misuse of such research when he stated that neither cloning nor genetic engineering would take place during IVF research.⁹

The EAB’s lawyer Walter Wadlington introduced a different theme into the discourse on IVF research by using existing laws—especially *Griswold v. Connecticut*—to inform government policy on IVF research. In *Griswold v. Connecticut* (1965), the Supreme Court overturned a state law banning the use of contraceptives for married

⁸ *Ibid*, 104.

⁹ United States. Congress. House. Committee on Interstate and Foreign Commerce. Subcommittee on Health and the Environment, *In Vitro Fertilization, Oversight*. 95th Cong., 2nd sess., August 4, 1978, 85-86.

couples, citing marital rights and privacy—rights which might translate into the realm of infertility treatment for married couples. Wadlington compared attempts to legislate against IVF to attempts to legislate morality. Declaring such efforts illogical, he noted that “there has been reluctance to even suggest that a pregnant mother should be forced to alter her lifestyle during pregnancy to insure that the health of the fetus will not be affected...[I]nformed private decisionmaking [is] highly regarded today.”¹⁰ Building on the precedent set by *Griswold v. Connecticut*, Wadlington suggested that decisions about personal matters should remain in the private sphere: the U.S. government should not interfere with decisions exercised in the private realm.

John C. Fletcher, an ethicist from the EAB, provided a utilitarian view of IVF when he also made the case for lifting the moratorium on research. The potential benefits of IVF, Fletcher argued, outweighed its possible harm, including any infringement of social and religious values. He believed that such research should be pursued in the United States for the following reasons:

One: There is an obligation to relieve suffering when the means to do so are available.

Two: There is an obligation to increase the number of wanted children.

Three: There is an obligation to increase the number of adults who want to be responsible parents.

From Fletcher’s perspective, it would be wrong for the Federal government to prevent medicine from easing the pain of infertility when the technology to do so was available. The government was not necessarily obliged to provide for the relief of suffering, but the state should not deny the individual citizen the right to pursue his or her own happiness.

¹⁰*Ibid*, 106.

Any child born of IVF would be wanted, Fletcher argued, and the parents would be responsible and loving after investing so much effort in producing their child.¹¹

As such rhetoric from different representatives of the EAB indicates, the Board favored lifting the moratorium on government funding for IVF research, although with a few reservations. Its report concluded that the technique was ethically acceptable, that it would yield important scientific research, and that the Department of Health, Education, and Welfare should consider supporting and funding such endeavors. Nonetheless, referring to the precedent set by *Griswold v. Connecticut*, the Board also warned against “unwarranted governmental intrusion into personal and marital policy,” meaning that married couples should have the power to make their own reproductive decisions.¹² Thus, the EAB determined that the role of government in IVF should not be prohibitory, but rather should encourage the education of citizens in this arena so that they might make informed decisions on their own. However, the Board advised Secretary Califano that he should encourage the development of a law to clarify the legal status of children born of IVF, to legitimize the paternity of children born from this process.¹³ Perhaps they were aware of an expansive 1878 Illinois law that held fertility specialists legally responsible for the welfare of the children they helped to create through IVF.¹⁴ While the law was rare, it represented one obstacle that could restrict access to reproductive technologies. Legal clarification was needed, but Califano did not heed the EAB’s

¹¹ Ethics Advisory Board. Department of Health, Education, and Welfare, *Report and Conclusions: HEW Support of Research Involving Human In Vitro Fertilization and Embryo Transfer*, May 4, 1979, 28.

¹² *Ibid*, 102.

¹³ *Ibid*, 113.

¹⁴ Harriet Pilpel, “New Methods of Conception and Their Legal Status,” *New York Law School Human Rights Annual* 3 (Fall 1985): 26.

advice, instead leaving the legal status of IVF and the children produced from this procedure to individual states and their courts.

The EAB's report was a political hot potato from its inception because it involved the moral status of the fetus. The Supreme Court's *Roe v. Wade* decision lingered in the minds of many and the IVF debate seemed all too familiar. In its "Review of Public Attitudes," the Board noted that "the most frequently articulated argument against federal funding of IVF was based on the moral status of the fertilized egg and embryo."

Proponents of this argument believed that human life should be respected from the moment of fertilization. They argued that "deliberately to create human life merely for experimental purposes...is immoral."¹⁵ While Board members found their deliberations regarding the moral status of the embryo to be among the most difficult to confront, they decided that "the human embryo is entitled to profound respect; but this respect does not necessarily encompass the full legal and moral rights attributed to persons."¹⁶ This controversial determination eventually led to the dismantling of the EAB.

DHEW received 12,600 letters from across the country because of the EAB's report, only two percent of which supported IVF and the Board's stance.¹⁷ Members of Congress challenged the report as well, sending fifty letters signed by twenty Senators and seventy-three Representatives.¹⁸ This overwhelming opposition to the EAB's report

¹⁵Ethics Advisory Board. Department of Health, Education, and Welfare, *Report and Conclusions: HEW Support of Research Involving Human In Vitro Fertilization and Embryo Transfer*, May 4, 1979, 85.

¹⁶*Ibid.*, 101.

¹⁷Andrea Bonnicksen, *In Vitro Fertilization: Building Policy from Laboratories to Legislatures* (New York: Columbia University Press, 1991), 80.

¹⁸*Ibid.*

convinced Secretary Califano to shelve the issue, and, in 1980, the next DHEW Secretary, Patricia Harris, disbanded the EAB altogether.¹⁹

Required to advise the Department of Health and Human Services about the acceptability of proposals for research involving human subjects, the EAB played a crucial role in the funding decisions for IVF. In the absence of the EAB or any viable counterpart, Federal research funding for IVF was blocked, placing a de facto ban on requests for such support. The government would not fund any research involving human embryos that was not reviewed and determined ethically inoffensive, but the Ethics Advisory Board was the only governmental apparatus to make this determination. Without the EAB to determine the ethical culpability of an experiment involving humans, there was an unsaid understanding that Federal funding would not be provided for such ventures. Thus, medical researchers and scientists ceased to submit proposals for research on IVF to the federal government. The costs of research on this procedure in America in the 1980s were funded solely by grants from pharmaceutical companies, departmental funds, and patient fees.²⁰

One of the keys to understanding the reasons why the American IVF treatment program has had a mixed legacy during the past twenty-five years follows directly from the extinction of the EAB. The absence of the EAB created a domino effect regarding the status of IVF in America. Because the EAB did not exist to approve funds for research, no government funding or regulation of IVF helped to nurture and shape the new

¹⁹ Lori B. Andrews, *New Conceptions: A Consumer's Guide to the Newest Infertility Treatments, Including In Vitro Fertilization, Artificial Insemination, and Surrogate Motherhood* (New York: St. Martin's Press, 1984), 147.

²⁰ Testimony of Gary B. Ellis, United States. Congress. House. Committee on Small Business. Subcommittee on Regulation and Business Opportunities, *Consumer Protection Issues Involving In Vitro Fertilization Clinics*. 100th Cong., 2nd sess., June 1, 1988, 154.

programs that began cropping up across America. In turn, the lack of federal funding led to extensive costs that inevitably trickled down to the patients in an environment where health insurance often covered the very minimal portions of the “experimental” treatment, if any at all, and clinics were largely unregulated and of uneven quality.

Despite obstacles from the Federal government, some American researchers were able to scrape together the funds necessary for IVF research. Doctors Howard and Georgeanna Jones, a husband and wife team at the Eastern Virginia Medical School in Norfolk, Virginia were the first to raise funds and begin researching IVF as early as 1978.²¹ IVF pioneer Robert Edwards had been a student of theirs, providing one incentive for them to attempt the procedure he struggled to perfect. After Howard Jones’s remark that all it would take to produce a child via IVF in the United States was money, donations began pouring in and the unexpected funding provided the pair with the opportunity to start the country’s first IVF research clinic involving human subjects.²² Together, they met success in 1981 with the first baby born of the IVF procedure in the United States, Elizabeth Jordan Carr.²³ A number of different American universities such as the University of Southern California, Yale University, the University of Texas, and Vanderbilt University soon followed suit, and the practice eventually spread to hospitals.²⁴ While the procedure was found to be morally acceptable yet too controversial for Federal funding, those interested in reproductive technology found alternative means, without spending American tax dollars.

²¹ Matt Clark, et al., “Infertility: New Cures, New Hope,” *Newsweek* (December 6, 1982): 106.

²² Eileen Keerdoja and Mary Hager, “Test-Tube Triumphs,” *Newsweek* 100 (Dec. 6, 1982): 110.

²³ *Ibid.*

²⁴ Clark, 106.

But, money remained an unresolved issue for the infertile population in America. Although the procedure became available in the early 1980s, not only were the waiting lists extremely long, but treatment costs were high. Because the Federal government did not provide subsidies to institutions for IVF, the patients were largely responsible for the costs. And, despite reassurances by many IVF clinics and programs, private health insurance rarely reimbursed patients for IVF related expenses. Brochures provided by clinics used guarded but overly optimistic language when discussing insurance, claiming that “some insurance companies are providing partial or full coverage for IVF-ET procedures,” and that “it is anticipated that many insurance carriers will pay for the procedure.”²⁵ In the vast majority of cases, however, the patient paid the costs associated with the procedure. One patient considered herself extremely lucky to be able to afford six years of treatment, even though some of her costs were covered by insurance, “because the procedures claimed were not necessarily clearly fertility procedures.”²⁶ This particular patient’s statement conveys insurance providers’ failure to consider infertility treatments medically legitimate; if the treatment could be justified in ways unrelated to IVF, insurance companies might cover the costs. However, if the treatment could only be justified in terms of infertility, healthcare providers rarely assisted their patients with medical costs. While different clinics continued to claim that insurance would cover at least part of the patient’s bill, most medical centers required the patient to pay prior to treatment. A Century City Hospital (Los Angeles) brochure included the following information regarding fees, payment, and insurance:

²⁵ United States. Congress. House. Committee on Small Business. Subcommittee on Regulation and Business Opportunities, *Consumer Protection Issues Involving In Vitro Fertilization Clinics*. 100th Cong., 2nd sess., June 1, 1988, 102 and 118.

²⁶ *Ibid*, 123.

Fees are collected at the beginning of the patient's cycle. Cost breakdowns are available upon request and are separated by hospital, physician, laboratory charges, etc. A pro-rated, 30-day refund for interrupted cycles is built into the program. Because many insurance plans do not cover these procedures, couples are personally responsible for all expenses... Underground parking is free at Century City Hospital when you come for scheduled appointments, testing, and treatment. Be sure to ask for parking validation.²⁷

The good news was the availability of free parking if one remembered to validate. The bad news was that insurance companies did not cover the costly procedures, forcing the patient to pay up front. At least Century City Hospital's program made it abundantly clear that many insurance companies would not cover artificial reproduction treatments.

While patients paid most costs out of pocket, "fertility specialists" often profited handsomely from IVF programs. Due to immense patient demand, infertility clinics and treatment in general grew exponentially in the 1980s, creating a great incentive for doctors to enter the field. In a 1992 hearing on consumer protection issues regarding IVF, Congressman Ron Wyden observed that "practitioners are not tripping over themselves to get into this field for nothing. They clearly recognize that this is a growth field."²⁸ Wyden further predicted that the field would continue to grow dramatically, as couples would continue to wait later in life to conceive, and as one ages, the probability of conception decreases. Ann Petter, the president of RESOLVE, echoed Wyden's charges when she acknowledged that "IVF, GIFT, and other high tech procedures are clearly patient driven medicine which is of course sometimes synonymous with profit driven medicine."²⁹ She beseeched and warned IVF practitioners not to forget their patients and the importance of earning patients' trust as well as earning their own livings.

²⁷*Ibid*, 430.

²⁸*Ibid*, 147.

²⁹*Ibid*, 126.

RESOLVE, a nonprofit organization founded in 1974 to provide emotional support, information, and advocacy to America's infertile population, dedicated itself to educating its members so that they might resolve their "infertility problem by making an informed choice." Emphasizing that the treatment of infertility was often profit-driven medicine, Petter wanted patients to realize that infertility specialists were often drawn to the field by the monetary rewards involved.³⁰ Indeed, this was illustrated by the fact that doctors in the field increasingly left positions in not-for-profit universities for more lucrative positions in clinics and hospitals.³¹ University medical centers had another advantage as well. As doctors willing to work for a fraction of the possible salary that could be made at private clinics, they had ethics committees to monitor their work, while private clinics did not.³² Petter surely preferred the university setting over private clinics, as she sought to maintain "trust [between doctors and patients] by giving clear, comprehensible, and truthful information."³³

Petter's main goal in establishing RESOLVE was not only to support infertile patients, but to make them aware that their doctors' motives might not be purely altruistic. So they needed to be well-educated about infertility and its possible treatments to protect themselves against exploitation at the hands of profit-driven doctors. But, Petter also recognized that infertility specialists needed patient fees to afford the extremely high costs of operation, especially for new clinics. In her testimony to Congress for the consumer protection act, the RESOLVE president stated, "Malpractice

³⁰ *Ibid*, 126.

³¹ *Ibid*, 635.

³² Clark, 105.

³³ United States. Congress. House. Committee on Small Business. Subcommittee on Regulation and Business Opportunities. *Consumer Protection Issues Involving In Vitro Fertilization Clinics*. 100th Cong., 2nd sess., June 1, 1988, 126.

insurance is high. Salaries for highly trained personnel and renting equipment are expensive. These costs must be covered, we realize that, and we are working across the country for insurance coverage for these costs.”³⁴ Although Petter recognized the monetary incentive for entering the infertility field, she also realized that many doctors were honest and charged legitimate fees.

Nonetheless, even pharmaceutical company representatives such as Thomas Wiggans of Serono Laboratories, maker of the fertility drug Pergonal, verbalized concerns that “some doctors see IVF as big business.”³⁵ Because there was no regulation of the field, virtually any gynecologist could identify as an infertility specialist regardless of his or her level of expertise. The combination of high profits and few requirements drew otherwise uninterested professionals to infertility treatment. Such incentives did not necessarily produce the best doctors.

So, while many doctors reaped the benefits of utilizing reproductive technologies, many people wondered about the patients who put enormous amounts of money, time, and energy into the possibility of becoming pregnant. Were these “consumers” exploited by the medical community? The issue of consumer exploitation by the medical community was raised in a 1987 article of *Fertility and Sterility*, the monthly peer reviewed journal published by the American Fertility Society. Each month, the editor devoted a section of the publication to discussing IVF research and ways to improve the technology in order to increase the success rate—a rate considered dismal by many researchers and patients.³⁶

³⁴ *Ibid.*

³⁵ Clark, 109.

³⁶ Falker, Elizabeth Swire, *The Infertility Survival Handbook: Everything You Never Thought You'd Need to Know* (New York: Riverhead Books, 2004), 50, and Susan Faludi, *Backlash: The Undeclared War*

Fertility specialist Richard Blackwell, the author of the 1987 article did not discuss research, as most articles involving IVF did, but rather exposed the practices that exploited patients. While Blackwell noted the fine line between exploitation and legitimate treatment, he defined the mistreatment of patients in accordance with the Webster's Dictionary definition, interpreting it to mean taking one's benefit at the expense of another. Many people would argue, however, that Blackwell's definition of exploitation was mere capitalism. The author argued that infertility specialists had been lured away from standard medical ethics by the malpractice crisis, the development of new technology, and the entrance of for-profit organizations into the infertility arena.³⁷ Perhaps preferring to believe that the field could manage itself, Blackwell did not include the lack of government regulation in this short list. Nor did he explain clearly how and why these forces necessarily led to less than truthful practices in infertility treatment, briefly mentioning these causes before moving on to the different forms of exploitation. Blackwell also defended physicians' mistakes when he wrote, "If...substandard or unnecessary medical care is rendered to the infertile couple, exploitation has occurred. Fortunately, we believe that the majority of physicians think that the therapy they are providing to the infertile couple is appropriate, and exploitation is often unintended."³⁸ Key problems in the field included the improper use of credentials, the misuse of new reproductive technologies, and truth in advertising.

First, Blackwell and his colleagues discussed problems arising from the inappropriate use of credentials in the practice of infertility treatment, particularly when

Against American Women (New York: Anchor Books, Doubleday, 1991), 422.

³⁷ Richard E. Blackwell, et al., "Are We Exploiting the Infertile Couple?" *Fertility and Sterility* 33 no. 1 (Nov. 1987): 735.

³⁸ *Ibid.*

dealing with complicated technologies such as IVF. Although the American Board of Obstetrics and Gynecology (ABOG) certified its members to evaluate infertile couples, this certification did not necessarily indicate expertise in the area of *treatment*. Such skills were not standard in the training of gynecologists and obstetricians and required specialty training. However, as was often the case, a “short weekend post graduate course” offered doctors an opportunity for knowledge on the technology and provided them with certificates “suitable for framing” after completion. Blackwell wrote that participation in such seminars and classes could be misleading to patients who saw these certificates and assumed that these practitioners were infertility *specialists* (as they could then call themselves). The courses were intended to expose gynecologists to the new techniques, not to train them to perform complicated procedures. But, because there was no monitored credentialing process in the field, unqualified doctors could claim to have the training and skills to perform IVF, thus gaining the trust of their patients.³⁹

Along the same lines, doctors could also use their membership in the American Fertility Society (AFS) and the Society for Assisted Reproductive Technology (SART) to mislead patients into thinking that they were part of an accredited treatment institution. Typical patients likely viewed membership in such an organization as proof that their infertility “specialist” was specifically trained in the field of infertility treatment. What most patients did not realize, however, was that membership in AFS was “open to all individuals who express an interest in the field and pay modest membership fees.”⁴⁰ Interest, however, did not connote expertise. And, as Blackwell pointed out, patients are

³⁹ *Ibid*, 736.

⁴⁰ *Ibid*, 735.

“generally unaware of the difference between membership in professional societies that are open versus those with limited (peer review) membership.”⁴¹

Emphasizing research and the education of doctors, the AFS has historically opposed merely monitoring the field. According to former AFS president Dr. Benjamin Younger, if the society attempted to monitor the field by limiting membership, it would be working against its goals by “restricting education opportunities.”⁴² But while the mission to educate represented a noble cause, mere information dissemination did not stop what Blackwell called the misuse of new reproductive technologies—misuse which followed from a lack of education *and* credentials. Without a credentialing system to identify and monitor doctors who were qualified to practice IVF, attempts at education meant little. If anyone could get into the field with limited ability, what did membership in the AFS really mean?

Unlike the AFS, SART had some requirements for admission—minimal though they were—stipulating only that doctors applying for membership could demonstrate that they had performed forty IVF stimulation cycles per year for at least one year.⁴³ This number should not be confused with forty patients, or forty pregnancies, but rather the number of times that the doctors used hormones to stimulate a patient’s ovulation cycle. Thus, SART emphasized neither success nor proof of mastery for membership, prioritizing quantity over quality in ways that could actually encourage exploitation. SART unintentionally provided doctors with incentives to perform ill-advised procedures to reach the minimum number of cycles to become eligible for membership. Some

⁴¹ *Ibid.*

⁴² United States. Congress. House. Committee on Small Business. Subcommittee on Regulation and Business Opportunities, *Consumer Protection Issues Involving In Vitro Fertilization Clinics*. 100th Cong., 2nd sess., June 1, 1988, 130.

⁴³ *Ibid.*

practitioners incompletely evaluated patients, resorting “unnecessarily and prematurely” to techniques such as IVF or GIFT. But, of course, unnecessary use of reproductive technologies increased practitioners’ eligibility for membership in SART and AFS.

Problems of quality versus quantity also surrounded the discussion of truth in advertising, the final issue raised by Blackwell. “No area of reproductive endocrine/infertility practice has been more preoccupied with pregnancy rates than IVF,” he wrote, declaring this emphasis understandable given the “emotional and financial pressures that fall upon couples who undergo this process.”⁴⁴ IVF clinics and doctors had the ability to advertise falsely because they had a number of different options when quoting their success rates, of which most patients were largely unaware. Blackwell noted that pregnancy rates could be “reported in terms of pregnancies per attempt, pregnancies per fertilization, and pregnancies per transfer. Therefore, what constitutes a pregnancy can be confusing to the lay public.”⁴⁵ Rather than informing the patient of the actual take-home baby rate out of all of the stimulation cycles, or all of the attempts at fertilization, they instead emphasized the number of patients treated. In so doing, the doctors have manipulated the numbers to make their success rate appear more impressive.

Although Blackwell’s article did not advocate government regulation, it nonetheless spurred the creation of a Congressional committee to explore consumer protection issues involving *in vitro* fertilization in 1989. Ron Wyden, the chair of the committee, cited the article when he stated that “The first people to blow the whistle on infertility scams were the fertility professionals themselves...this landmark statement of

⁴⁴ *Ibid*, 738.

⁴⁵ *Ibid*.

professional principles was authored by 11 [sic] of the most distinguished fertility specialists in the United States.”⁴⁶ Their often-cited article addressed and explicated the three major areas that its authors identified as susceptible to potential exploitation, and the grievances listed became the focus of government debate when the Subcommittee on Regulation, Business Opportunities, and Energy held hearings. The hearings focused on consumer protection issues, and included discussions regarding the technology’s success rates, advertising, accreditation process, and possibilities of Federal regulations. The discussions resulted in the Fertility Clinic Success Rate Certification Act of 1992, the Federal government’s only attempts to regulate IVF in the United States. Congress passed this act in order to “provide the public with comparable information concerning the effectiveness of infertility services and to assure the quality of such services by providing for the certification of embryo laboratories.”⁴⁷ The act further specified standards for assuring the performance of procedures, the quality control of the program, and appropriate funds for lab personnel. In order to enforce such standards, the act provided the Secretary of Health and Human Services with the authority to take action if he or she made the determination that a facility was in violation of the codes. This act, directed at protecting the consumer, was the first step in the direction of government regulation or standards involving IVF.

While IVF was once again thrust into the center of congressional hearings, little action followed the hearings. The regulatory consumer protection act of 1992 was designed to protect consumer/patients, and although it provided no Federal funding for

⁴⁶ United States. Congress. House. *Fertility Clinic Success Rate and Certification Act of 1991*, 102nd Cong. 2nd sess., April 3, 1992.

⁴⁷ United States. Congress. House. Committee on Small Business. Subcommittee on Regulation, Business Opportunities, and Energy, *Fertility Clinic Success Rate and Certification Act 1992: Report*, 5.

scientific research, it did help standardize the development of IVF in the United States. Consumer protection involving IVF and other reproductive treatments was a safe issue for policymakers, for the *protection* of American consumers had no adverse ethical implications.

The dismantling of the Ethics Advisory Board in 1980 froze government funding for research in the field of reproductive technology. Without government regulation and involvement, clinics have had free reign to inflate their success rates. Consumers of such medical technologies paid excessive fees that insurance companies rarely covered. The legislation enacted in 1992 reduced exploitation of the patient, but still failed to provide funding further research and development of the technology. Because the American government hindered experimental research on IVF, ET, and GIFT, infertile Americans faced specialists who were sometimes ill-suited to make complicated judgments and prescriptions regarding the newly developed reproductive technologies, yet were unaware that they were putting their future progeny in the hands of the unskilled.

Chapter 2: The Opposition

“We are not arguing against medical progress, for a great deal of useful knowledge is potentially available through in vitro research. We are simply concerned that Americans spell out carefully what progress means before they endorse it.”¹
-Ethicist Andre Hellegers, 1979

“As the mysteries of reproduction and fertility are explored by modern science, the new technologies claim to offer the possibility of liberation from certain biological limitations. But there is little cause for women to celebrate. Experimental procedures designed ostensibly to enhance fertility have been focused solely on women, and bear resemblance to primitive torture techniques.”²
-*Ms.* magazine, 1991

The development of IVF in the United States as a commercial enterprise can be traced to the broad-based opposition that challenged the ethical and moral justifications of the new technology. While feminist journalists challenged assisted reproduction in *Ms.* magazine for its “resemblance to primitive torture techniques”³ and its origins in paternalistic pronatalism, others considered the process a morally reprehensible equivalent to abortion. Opponents of IVF—namely conservative Christians and radical feminists—expressed fears about the misuse of technology and science and worried about the ways in which its existence would challenge societal norms. The only commonality between these two groups was their denunciation of assisted reproduction; their views on politics and society differed greatly, as did their reasons for disliking the technology. The conservative Christians—namely Catholics—opposed IVF for its connection to abortion and its failure to respect the sanctity of life. Feminists disdained IVF for the ways it used women’s bodies as laboratories and blamed the female reproductive system for the technology’s failure.

¹ Ethics Advisory Board. Department of Health, Education, and Welfare, *Report and Conclusions: HEW Support of Research Involving Human In Vitro Fertilization and Embryo Transfer*, May 4, 1979, 25.

² “Women as Wombs,” *Ms.* 1 (May/June 1991): 28.

³ *Ibid.*

While some religions welcomed IVF more than others, Catholic doctrine remained particularly opposed to the procedure even as other church sects came to accept the technology's social value. One specific problem for the Catholic Church was that IVF involved the fertilization of more than one egg, some of which would likely be destroyed. As a solution to this particular problem, IVF clinics in Australia began fertilizing only one egg for Catholic couples, a compromise that proved acceptable for the couples and their church despite its much lower success rate.⁴ But perhaps the aspect of IVF most contested by religious groups during this time period was its connection to abortion—a connection that made other tensions between religion and IVF seem insignificant. In the political arena of the late 1970s, ties to the abortion issue left the IVF debate bound and gagged.

In his book, *In the Shadow of War: The United States Since the 1930s*, historian Michael Sherry argues that an overarching theme of war has permeated American society since World War II. Because of the numerous battles that the United States committed to in the post-war world, Americans began to think in militaristic terms. He claims that this “shadow of war,” has led Americans to understand important or controversial issues in terms of war. A prime example of the use of the war analogy can be found in the abortion debate. The anti-abortion “crusaders” and “warriors” fought abortion in nationwide sieges of family-planning clinics, using titles such as “Operation Rescue.”⁵ While the pro-life camp of the abortion debate utilized the belligerent language of war, supporters of IVF were unable to use militaristic language to mobilize its proponents.⁶ There was

⁴ Matt Clark, et al., “Infertility: New Cures, New Hope,” *Newsweek* (December 6, 1982): 108.

⁵ Susan Faludi, *Backlash: The Undeclared War Against American Women* (New York: Anchor Books, Doubleday, 1991), 400.

⁶ Bonnicksen, 19.

no “war against infertility” in the United States, although reproductive technologies were connected to the abortion battle.

One may wonder exactly how new reproductive technologies which were intended to create life became linked to abortion—a procedure designed to prevent or end life, depending on one’s view of when life begins. For all intents and purposes, the two procedures appear to be inherently at odds with one another. The first attempted to provide a child for those who desperately wished to be parents, and the latter provided a solution to unwanted parenthood. Nonetheless, the debate surrounding IVF was entrenched in discussions of abortion and questions of its morality and ethics because of its research and use of the human embryo. Because of the unanswerable moral question of when life begins, the two procedures have been rigorously and emotionally discussed and debated by ethicists, theologians, lawyers, biologists, and politicians, among many others.

One answer to this question of when life begins led to the belief that unimplanted and unused fertilized eggs could be considered “mini-abortions.”⁷ Because some believed that human life begins when the sperm and egg meet, they argued that disposing of fertilized eggs was tantamount to murder. Others charged doctors and researchers with the gross misuse of human life, especially when IVF failed to produce babies. The fact that eggs were *purposely* created and not used was a particular problem for those who believed life began with fertilization.⁸

Even those who found themselves unable to decide the particular moment when human life begins urged caution. In a 1979 Ethics Advisory Board hearing, members and

⁷ Ethics Advisory Board. Department of Health, Education, and Welfare, *Report and Conclusions: HEW Support of Research Involving Human In Vitro Fertilization and Embryo Transfer*, May 4, 1979, 6.

⁸ *Ibid*, 5.

ethicists Andre Hellegers and Richard McCormick asked, “Where human life is at stake and we have doubts about its evaluation, does not prudence dictate that as a general rule life enjoy the benefits of our doubts?”⁹ Centering on the sanctity of life, this question posited that even if one could not point to the exact moment when life begins, one should proceed with caution when dealing with human subjects. Because the question of when human life begins remained undetermined, to many ethicists, little distinguished implanting all fertilized eggs into a patient’s uterus and aborting a developing fetus.

At that same hearing, bioethicist Dr. Leon Kass, confessed his inability to define the moral status of the human embryo, yet he addressed the question in a way that appealed primarily to the intellect. While Hellegers and McCormick appealed to the fear of the unknown, Kass emphasized that the embryos were “biologically alive,” and that they exhibited a “continuity of development” with later fetal life.¹⁰ This line of reasoning led Kass to believe that embryos were potentially “protectable humanity,”¹¹ further supporting his belief that IVF, much like abortion, disrespected human life. In his assessment, supporters of abortion *and* IVF denied the sanctity of life.

However, IVF developer Robert Edwards was also present at the hearing, poised and ready to address the criticisms levied by opponents of his research, responding first to fertilization as the beginning of life. Edwards pointed out that because “processes essential to development begin long before ovulation...fertilization is only incidental to the beginning of life.”¹² One of Edwards’s counterarguments to the position that life begins with fertilization was that few people questioned the morality of implanting the

⁹ *Ibid.*, 6.

¹⁰ *Ibid.*, 5.

¹¹ *Ibid.*

¹² *Ibid.*, 6.

intra-uterine device (IUD) for purposes of contraception even though the IUD “expel[ed] unimplanted embryos from the uterus.”¹³ Edwards argued that by accepting the IUD, Americans indirectly accepted abortion if they believed that fertilization marked the beginning of life. Edwards thought that if society tolerated the expulsion of fertilized eggs from the woman’s uterus by a birth control device, surely it would welcome IVF as a procedure for creating life despite the loss of some fertilized eggs. If ethicists did not consider the results of IUDs as “mini-abortions,” then, Edwards argued, neither should the process of IVF be correlated with abortion.

But one of the main ethical and theological concerns with the process of IVF was that it *intentionally* created and then destroyed life. Kass noted that while the “fetuses killed in abortion are unwanted” and “accidental” the embryos created through this process were wanted.¹⁴ Kass’s interpretation was that compared to abortion, IVF was more reprehensible. For Kass, intention was *the* critical point in this moral debate, yet he failed to take into account another important objective. He did not recognize that IVF was intended to create genetic offspring for the infertile. In his emphasis on intentions, Kass only took into account objectives that perpetuated his own beliefs that creating life in a laboratory was ethically problematic.

Ethical problems with IVF also arose from its link to surrogate motherhood. Case law and media discussions demonstrate that Americans have historically viewed surrogacy as anathema.¹⁵ Some states have prohibited surrogate motherhood, while

¹³*Ibid.*

¹⁴*Ibid.*, 35.

¹⁵ Andrews, 14, and Ethics Advisory Board. Department of Health, Education, and Welfare, *Report and Conclusions: HEW Support of Research Involving Human In Vitro Fertilization and Embryo Transfer*, May 4, 1979, 28.

others have equated it to adultery and classifying the child as illegitimate.¹⁶ Many people voiced concerns that reliance on surrogacy would increase with the advent and popularization of *in vitro* fertilization. Although surrogacy became an option with artificial insemination, many thought that IVF would only enhance its prevalence because the child born of a surrogate mother could still be the biological product of its mother and father. Before IVF, the child would have been the product of the biological father and the surrogate mother. With the innovation of IVF, doctors could use the egg and sperm of the biological mother and father and then implant the embryo into the surrogate mother's uterus. Thus, mothers who were unable to gestate or birth a child, or even women who simply did not want to be pregnant, would still be able to have a child that was biologically their own. The seeming simplicity of this procedure concerned theologians, ethicists, and social observers in general, who feared that the wealthy would exploit the poor with this process.¹⁷

In Great Britain and Australia, institutional groups such as the Royal College of Obstetricians and Gynecologists (RCOG), the Warnock Committee, and the Waller Committee spoke out against surrogacy in the early 1980s.¹⁸ The American College of Obstetricians and Gynecologists (ACOG) also contemplated ethical issues that might arise with surrogacy, and determined that physicians who assisted in such situations should carefully question all participants to make sure that the surrogate mother had not

¹⁶ Andrews, 14.

¹⁷ Ethics Advisory Board. Department of Health, Education, and Welfare, *Report and Conclusions: HEW Support of Research Involving Human In Vitro Fertilization and Embryo Transfer*, May 4, 1979, 28.

¹⁸ Diana Brahams, "In-Vitro Fertilisation and Related Research: Why Parliament Must Legislate," *The Lancet* 2 no. 8352 (Sept. 24, 1983): 726-729.

been financially coerced into the agreement.¹⁹ Such groups determined that relegating pregnancy to the realm of financial commodities would cheapen life by putting a price tag on something that should have been priceless and spiritual. Furthermore, according to public opinion surveys, by 1983 surrogacy ranked below any other reproductive technology ethically and morally.²⁰

Many people also questioned whether infertility qualified as an actual disease, implying that government funding should be limited to research on diseases. Leon Kass asked, “Is the desire to have children who are biologically one’s own really a medical need?”²¹ Because this treatment did not cure the ultimate problem of infertility, but merely provided passing relief to a permanent obstacle, opponents argued that there were other, more important lines of research for the government to fund. In other words, because the infertile couple would presumably always be infertile, members of the EAB believed that IVF should not be government sponsored, or even endorsed.

Even as opponents of IVF complained that infertility was not a disease, so did IVF patients. When British author Karen Thornsby interviewed infertile couples to gain a better understanding of the impact of IVF, she found that many women undergoing IVF compared their plight to those undergoing cancer treatments. However, while cancer was considered a disease and its treatment therefore legitimate, infertility seemed relatively trivial, frivolous even. Thornsby wrote that “Cancer treatment is used here as the

¹⁹ L.B. Andrews and J.L. Hendricks, “Legal and Moral Status of IVF/ET,” in Christopher M. Fredericks, John D. Paulson, and Alan H. DeCherney, eds., *Foundations of Fertilization In Vitro* (New York: Hemisphere Publishing Corporation, 1987), 328.

²⁰ Brahams, 726-729.

²¹ Ethics Advisory Board. Department of Health, Education, and Welfare, *Report and Conclusions: HEW Support of Research Involving Human In Vitro Fertilization and Embryo Transfer*, May 4, 1979, 10.

deserving ‘Other’ against which IVF is to be judged.”²² Because of the common portrayal of a cancer patient as the quintessential beneficiary of health care resources, the women undergoing government funded IVF in England found themselves accused of selfishness by those who considered infertility treatment a luxury.

Nonetheless, these women also recognized that the government funded other treatments that did not cure diseases. IVF developer Robert Edwards also argued this point before the Ethics Advisory Board. Edwards pointed out that diabetes is accepted as a disease, although its main treatment does not rid the patient of diabetes. Much like IVF, insulin shots only provide a temporary solution to the problem, but most people would not question government funding of research for diabetes. One major difference between diabetes and infertility was that the former could prove to be fatal and its treatment aimed to preserve existing life, while the latter focused on creating new life. As one IVF patient poignantly stated, “No one dies of infertility, you just wish you could.”²³

Because people questioned the status of infertility as a legitimate affliction deserving of medical attention, laypersons found themselves tempted to propose non-medical solutions to infertile couples. People who were morally opposed to IVF suggested that infertile couples adopt children. However, many couples who underwent IVF thought of adoption as a last resort, although most classified it as a “less dramatic alternative.”²⁴ Depending on the age of the couple, though, adoption could also be extremely difficult. Older couples, for example, would not have been considered by

²² Karen Thornsby, *When IVF Fails: Feminism, Infertility, and the Negotiation of Normality* (London: Palgrave Macmillan, 2004), 102.

²³ Anna Quindlen, “Baby Craving: Facing Widespread Infertility, A Generation Presses the Limits of Medicine and Morality,” *Life* 10 no. 6 (June 1987): 23.

²⁴ Clark, 110.

adoption agencies, much as they would have been denied the opportunity to attempt IVF when the procedure was first developed.²⁵

In their book, *A Matter of Life*, IVF pioneers Steptoe and Edwards argued that opponents of the new reproductive technologies (NRT's) should not consider adoption a viable alternative to IVF, because the prevalence and social acceptance of contraception and abortion reduced the number of adoptable children. Many of his own patients, he argued, had made numerous failed attempts to adopt. Perhaps their most intriguing retort to those who questioned the necessity or even the relevance of IVF when there were children waiting to be adopted was that such arguments involved sacrifice from "one group of people in order to solve the problems of another."²⁶ Steptoe and Edwards viewed adoption as rectifying another person's mistake, and they focused on solving their patients' troubles, not using their patients' affliction to solve someone else's problem.

Radical feminists also responded to IVF and other new reproductive technologies in an out-spoken, well-organized manner. Founded in 1984, the Feminist International Network of Resistance to Reproductive and Genetic Engineering (FINRRAGE) has since represented the feminist opposition to IVF. The group was formed by a number of feminist authors, including Gena Corea, Renate D. Klein, Janice Raymond, and Robyn Rowland, all women who sought to stop what they considered the misuse of the female body by science and medicine. Reproductive engineering was, they declared, "another attempt to end the self-determination" of women's bodies.²⁷ The feminist response, however, utilized a number of different arguments in their fight for female autonomy,

²⁵ Leslie Bennetts, "Baby Fever," *Vogue* 175 (August 1985): 387.

²⁶ Robert Edwards and Patrick Steptoe, *A Matter of Life: The Story of a Medical Breakthrough* (New York: William Morrow and Company, Inc., 1980), 102.

²⁷ Thornsby, 41.

adhering to the belief that the new reproductive technologies reinforced patriarchal roles, as opposed to giving “women greater reproductive freedom.”²⁸

In response to the increased popularity of new reproductive technologies, *Ms.* magazine presented a special report entitled “Women as Wombs,” featuring a number of feminist writers and FINRRAGE members. The introduction to the series spelled out the different arguments against IVF, including the problems of surrogate motherhood, custody battles over frozen embryos, and scientific language that cast women’s bodies as mere laboratories. The editor of the series wrote that despite the professed benefits of the new reproductive technologies, “there is little cause for women to celebrate.”²⁹

One article in *Ms.* magazine’s exploration of new reproductive technologies accused scientists of creating the demand for IVF. The author, Janice C. Raymond (a member of FINRRAGE), even found a scientist to “confirm” her belief that scientists “created” the “script of infertility” to justify the desire of scientists to test new techniques.³⁰ Furthermore, “medical fundamentalists” have merely changed the definition of infertility “thereby confusing the inability to conceive with the difficulty in conceiving quickly.”³¹ Finally, citing that “between 1965 and 1988, membership in the American Fertility Society jumped from 2,400 to 10,300” Raymond argued that “the only fertility epidemic is of fertility specialists.”³² Raymond’s concerns lay not only within the technology itself, but the scientists who developed IVF, the doctors who justified its

²⁸ Dorothy Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty* (New York: Pantheon Books, 1997), 248.

²⁹ “Women as Wombs,” *Ms.* (May/June 1991): 28.

³⁰ Janice C. Raymond, “International Traffic in Reproduction,” *Ms.* 1 (May/June 1991): 30.

³¹ Raymond, 32.

³² *Ibid.*

use and popularity, and perhaps even with those couples whose stubbornness and impatience led them to undergo an intense surgical process to have a child.

Yet another article in this series took IVF to task for different reasons. Robyn Rowland suggested that women were used in this technology in seemingly innocuous ways, but argued that in reality, there is a “‘battle’ between the natural functioning of a woman’s body and medical improvement.”³³ Many IVF supporters, men and women alike, have attributed agency to female IVF patients by pointing out that they were involved in the decision making process. By stating that women did not exhibit control over the IVF process and “The woman truly becomes the incubator/laboratory,” Rowland claimed that these women did not have autonomy.³⁴

Rowland argued that the division of women’s bodies into individual, independent reproductive parts perpetuated the idea of women as laboratories for the use of doctors and scientists. In this portrayal of IVF patients as a laboratory, one can only see the female IVF patient as a cold, sterile tool. If one understands the situation as Rowland did, the IVF patient lacked individuality and personality as well as autonomy. Rowland castigated doctors for holding this view of their patients when she charged them with blaming women’s bodies for not responding to their technology. She believed that “An underlying anger at the woman’s body for not performing as instructed repeatedly surfaces in the language used by doctors themselves. They set up a situation in which the uterus is seen as deliberately rejecting their control and they blame the uterus for the mishaps of reproductive technology programs.”³⁵ She argued that in this way, the doctors, the technology, and even the embryo remained blameless. Rowland’s charges

³³ Robyn Rowland, “Decoding Reprospeak,” *Ms.* 1 (May/June 1991): 38.

³⁴ *Ibid.*

³⁵ *Ibid.*

might seem extreme, but she correctly identified the common explanation for IVF's low success rates as related to women's unpredictable and uncooperative bodies. Whether or not one can claim that doctors were *blaming* their female patients for the technology's failures is questionable, but one can understand why doctors would avoid taking full responsibility for IVF failures.

Many of the concerns raised by members of FINRRAGE in *Ms.* magazine's special issue were revisited a decade later by British feminist author Karen Thornsby in her 2004 book, *When IVF Fails: Feminism, Infertility, and the Negotiation of Normality*. The date of publication for this book demonstrates another facet of the debates surrounding IVF. Although the technology became more accepted over time, some of the moral and ethical issues have survived. For example, Thornsby levied a number of compelling arguments both for and against IVF, although in a less accusatory tone than some of the members of FINRRAGE. Perhaps her moderate tone can be attributed to her main goal in writing the book; she aspired to explore the perceptions of women and men who had undergone IVF treatment, only to see it fail. In order to do this, she conducted interviews with fifteen women and thirteen couples whose most recent IVF treatment had occurred within two years of the interviews. The first thing she found noteworthy about infertility treatments that are focused on women's bodies was the absence of women in the ethical, legal, and political debates.³⁶

However, Thornsby did not only address issues of gender bias regarding women, but also explored the role of doctors in IVF. Arguing that the doctors treat the potential baby as central while leaving the parents on the periphery, Thornsby noted that the result of a successful treatment was an "IVF baby." The parents who had undergone the

³⁶ Thornsby, 21.

treatment were often relegated to the background while the doctors celebrated the technology that produced a child.³⁷ Although successful IVF treatments rewarded women with a baby, the doctors claimed all of the glory, leaving none for the mother. However, when the treatment failed, Thornsby wrote that “women are written back into the narratives as implicitly, or even explicitly, culpable for that failure, absolving technology, its practitioners and also the male partners of that responsibility.”³⁸ On the other hand, she argued that the media downplayed IVF failures, citing the first publicized case of the Brown family in 1978 as a prime example. John and Lesley Brown were not the first couple to undergo IVF, but as the first couple to produce a child following treatment, the media publicized and celebrated their story.³⁹

Unlike some of the members of FINRRAGE, Thornsby sought to dispel the common misconception that IVF patients were desperate, and thus willing to do absolutely anything to have a biological child. She presented these women, not as the “baby cravers” that both the popular press and feminists labeled them, but as women making rational choices. Rather than describe women as “victims” or “passive recipients” of IVF, Thornsby instead depicted them as “users who are not only actively engaged in the process, but also located at its frontiers.”⁴⁰ Based on her interviews with the women who had unsuccessfully undergone IVF, she believed that these women were aware of both the possibility and the risks involved in the process.

³⁷ *Ibid*, 59.

³⁸ *Ibid*, 134.

³⁹ *Ibid*, 48.

⁴⁰ *Ibid*.

Thornsby likened the mythical desperate infertile woman to the “scalpel slave” who constantly used plastic surgery to change her appearance.⁴¹ Such presentations of women fueled notions that women would do anything to conform to societal prescriptions that women play certain roles and look the part. Furthermore, Thornsby wrote that, “In the case of both the desperate infertile woman and the scalpel slave, their rhetorical function is as the irrational, out-of-control Other against which normality is defined.”⁴² Thus, while Thornsby recognized the common perception of the desperate baby craver, she did not see this image as a realistic portrayal, but rather as a myth which was useful in understanding the difference between a normal, good mother and an obsessed, selfish mother.

The media sometimes villainized IVF specialists as well as women, for although many people pointed to the availability of infertility treatment as a spur to the “epidemic” of infertility in the United States, negligence remained a problem in this field. According to demographer William D. Mosher, author of “Infertility: Why Business is Booming,” although the actual “number of infertile couples ha[d] dropped, the demand for infertility services [was] growing rapidly.”⁴³ Using statistics such as the number of times a year that Americans visited a doctor for infertility treatment between 1972 and 1980 and then again in 1983, Mosher demonstrated that the number of visits had doubled from 1 million times per year to 2 million.⁴⁴ Perhaps the availability of new reproductive technologies and the intense pronatalism of the 1980s were the main causes of this increased volume of infertility patients. But, while American citizens must have

⁴¹ *Ibid.*, 71.

⁴² *Ibid.*

⁴³ William D. Mosher, “Infertility: Why Business is Booming,” *American Demographics* 9 (July 1987): 42.

⁴⁴ *Ibid.*

perceived increased knowledge and expertise on the part of infertility specialists, many disagreed that any improvements had occurred.

As the quantity of infertility specialists continued to climb, the quality of these physicians was increasingly called into question. While the American Fertility Society was calling for advanced education for doctors who attempted to use the new reproductive technologies, patients raised concerns and complaints about their specialists. Legal infertility specialist Lori B. Andrews, J.D., and author of a number of articles and a book on the topic, discussed a 1983 study conducted in which one-third of the thirty-eight women questioned believed that it was difficult, even “stress producing,” to communicate with their specialists.⁴⁵ Women explained that their physicians did not always explain the procedure to them, did not provide different options, and sometimes made inappropriate sexual comments.⁴⁶

But not all Americans had the opportunity to complain about infertility specialists, as reproductive technologies were initially restricted exclusively to married couples. “Birth dearth” theorist Ben Watteberg listed the increased social acceptance of homosexuality as one of the factors that “depress[ed]” fertility in the 1980s—a distinct possibility because gay men and lesbians avoided fertility specialists, because most IVF clinics “accept only heterosexual married couples as clients.”⁴⁷ At its inception, IVF very strictly supported heteronormative values by excluding single women as well as homosexuals. Feminist scholar Karen Thornsby explained this stigma when she wrote, “the palpable unease and outrage when IVF is appropriated for non-conventional purposes is revealing of the power of the heteronormative reproductive standards which

⁴⁵ Andrews, 111-112.

⁴⁶ Andrews, 112.

⁴⁷ Roberts, 248.

underpin the development and delivery of IVF.”⁴⁸ Society and the government inarguably had a vested interest in who had children, and IVF was perhaps one of the few ways to control reproductive capacity during the 1980s. But slowly the strictures receded as IVF itself became more accepted. While it is obviously more difficult for homosexual men, lesbians have been able to have children by way of NRT’s as an extension of the acceptability of single motherhood.⁴⁹ Although many conservatives would frown upon intentional single motherhood and homosexual parenthood, they probably considered the former to be the lesser of two evils. By opening the doors to single women, though, lesbians were de facto accepted into the world of infertility treatment—a world that excluded gay men.

The challenges IVF posed to heteronormative reproduction is one aspect of the “‘Brave New World’ mystique” that enveloped reproductive technologies like IVF.⁵⁰ Social observers made the connection between the futuristic science fiction novel by Aldous Huxley because the new technology seemed to challenge natural reproduction and its presumed sanctity. With people such as “Frenetic Futurist Alvin Toffler” predicting that increased medical technology would result in “pregnancies of the future...be[ing] delayed until retirement,” proponents of the socially accepted life cycle that mirrors natural abilities undoubtedly bristled at the notion.⁵¹ Furthermore, those concerned with scientists going too far with reproductive technologies raised the issue of genetic cloning as the penultimate worst case scenario that would result from scientific

⁴⁸ Thornsby, 6.

⁴⁹ Bennetts, 387.

⁵⁰ Clark, 106.

⁵¹ J.D. Reed, “The New Baby Bloom,” *Time* 119 (Feb. 22, 1982): 58.

research on human fetuses.⁵² Ethical opposition to cloning elicited resistance to fetal research, and thus IVF during the late 1970s and 1980s. Fears of the *Brave New World* “mystique” receded, though, as the technology developed during the pronatalist 1980s and Americans came to accept IVF as a relatively commonplace, mainstream treatment by the middle of the decade.

By the mid-1990s, it became apparent that IVF was a technology that scientists and doctors would continue to utilize. The opposition—namely conservative Christians and radical feminists—had promoted and publicized their views on the issue, but to no avail. Perhaps it was the opposition’s failure to work together, or the fact that the technology’s opponents held vastly different worldviews and perpetuated their arguments differently. Nonetheless, in the 1980s, pronatalism gained ascendancy, and the opposition to any technology that enhanced reproduction was ultimately cast aside.

⁵² Ethics Advisory Board. Department of Health, Education, and Welfare, *Report and Conclusions: HEW Support of Research Involving Human In Vitro Fertilization and Embryo Transfer*, May 4, 1979, 51.

Chapter 3: Pronatalism in the 1980s

“And finally, when all other considerations have been resolved, there is the infinitely simple and infinitely complex question of conception. Women who have delayed childbearing are finding that getting pregnant can be difficult, even impossible.”¹
 -“Baby Fever,” in a 1985 issue of *Vogue Magazine*

While the IVF debate raged among policy makers and society throughout the United States, the 1980s experienced a resurgence of pronatalism that grew out of a backlash against feminism, and the ascendance of a conservative administration, all bolstered by an overeager American media which jumped on the bandwagon to emphasize the importance of having children. This intense pronatalism coincided with a time period that witnessed the exponential advancement of science and technology in the field of infertility, bringing droves of Americans to the offices of infertility specialists. Although the pronatalism of the 1980s demonstrates Margaret Marsh and Wanda Ronner’s position that social changes, more than technological changes bring people into doctors’ offices, one must admit that improvements in technology encourage people to seek professional help. The conservative administration that held power in the 1980s simultaneously provoked criticism and lavished praise on women who sought infertility treatment in their late twenties, thirties, and even early forties. The mainstream media embraced this rhetoric, and thus these reproductive technologies, urging women who had delayed childbearing to reset their biological clocks.²

While opposition to IVF raged in both conservative and liberal circles during the late 1970s and 1980s, it was no match for media attention to motherhood throughout the 1980s. In order to gain a better understanding of some Americans’ willingness to pay

¹Leslie Bennetts, “Baby Fever,” *Vogue* 175 (August 1985): 325.

² *Ibid.*

any price to have a child of their own, one must first comprehend the different forces that contributed to infertility and the sudden interest in its treatment during the 1980s.

Pronatalism reemerged after the Population Control Movement that began in the 1960s and lasted throughout much of the 1970s lost much of its popular following as the popularity of birth control and abortion sent the pendulum swinging the other way, once again. In a 1985 *Vogue* article titled “Baby Fever” one man claimed to have been criticized for his decision to have a baby in the 1970s; however in the 1980s, he believed that having a baby had transformed into a “big achievement.”³ It comes as no surprise that as the backlash against feminism assumed a pro-motherhood stance during the late 1970s and early 1980s, the Population Control Movement ebbed and a pronatalist decade began.

The popular media supported this backlash against feminism and the pronatalism with which it was coupled, as well as social theorists’ fears that an American “birth dearth” had replaced uninhibited population growth as the real population problem.⁴ By supporting and encouraging motherhood during the 1980s—especially mothers who were “elderly primagravidas”—the media supported the development of IVF and other assisted reproduction technologies without which many of these older women could not reproduce.

Fertility does decrease with age, but not as drastically as the media would have had women believe. There is some truth to the correlation of career women and infertility, as the woman’s age is often considered a critical factor that makes the

³ *Ibid.*, 387.

⁴ Ben J. Wattenberg, *The Birth Dearth* (New York: Pharos Books, 1987).

difference between fertility and infertility.⁵ IVF alleviated some of the problems of age-related infertility through the use of fertility drugs and eventually egg retrieval, fertilization, and implantation. But not all Americans were able to produce a child of their own, regardless of age, as the statistics regarding infertility in America indicate. While the number of doctor visits for infertility treatments rose from 600,000 in 1968 to 1.6 million in 1984, demographers argued that “*overall* infertility was *not* increasing significantly” in the early 1980s.⁶ Nonetheless, the National Center for Health Statistics reported that, “among couples aged 20-24, however, the percent infertile increased from 4 percent in 1965 to 11 percent in 1982.”⁷ The divergent numbers for the younger age group are largely attributed to a rise in sexually transmitted diseases, particularly gonorrhea, which became a growing problem in the United States following the sexual revolution. For all age groups, however, infertility plagued roughly one in seven American couples between 1965 and 1982, and the ratio has remained relatively steady since.

Not everyone who wanted a child could produce or obtain one, particularly because the availability of adoptable infants decreased during the 1970s and early 1980s, adding to the demand for reproductive technologies such as IVF. Certain historical developments such as the availability of contraception and abortion—thanks especially to the Supreme Court *Roe v. Wade* decision in 1973 and the increased social acceptability of single parent families—reduced the number of adoptable infants. Domestic adoption was

⁵ United States. Congress. House. Committee on Small Business. Subcommittee on Regulation and Business Opportunities, *Consumer Protection Issues Involving In Vitro Fertilization Clinics*. 100th Cong., 2nd sess., June 1, 1988, 210-211.

⁶ May, 217, and W.D. Mosher and W.F. Pratt, “Fecundity, Infertility, and Reproductive Health in the United States,” *Vital and Health Statistics* 23 no. 14 (Washington D.C.: U.S. Government Printing Office, 1982), 103.

⁷ Mosher and Pratt, 3.

available to fewer infertile Americans, although international adoption became a more likely possibility beginning in 1973.⁸ Political scientist Andrea Bonnicksen stated that the rate of domestic adoption fell from 69,000 in 1970 to 25,000 in 1977,⁹ and Lori B. Andrews, legal infertility specialist, noted that the percentage of unwed teenagers choosing to put their babies up for adoption dropped from thirteen percent in 1971 to four percent in 1978.¹⁰ Beginning in the 1980s, Americans had another option to alleviate their infertility and achieve parenthood status: IVF.

As this pronatalist decade wore on, the media increasingly placed blame on professional women for their infertility problems. For example, NBC correspondent Maria Shriver blamed personal decisions rather than physical problems for infertility when she referred to childlessness as “the curse of the career woman.”¹¹ One can find examples of such rhetoric in mainstream magazines as well as on television. Journalist Anna Quindlen made the following judgments in *Life*:

The irony is that while many Americans waited until everything else was running like clockwork—career, marriage, bank balance—the only part of the plan gone kaput is the baby-making. This is a new story, in which the generation that managed gleefully to separate sex and procreation finds to its sorrow that the two cannot always be reunited.¹²

Perhaps the last part of the quote could also be applied to the increased number of young women made infertile by sexually transmitted diseases. Regardless, popular culture during the late 1980s began to focus on professional women who really—and perhaps

⁸ Rickie Solinger, *Beggars and Choosers: How the Politics of Choice Shapes Adoption, Abortion, and Welfare in the United States* (New York: Hill and Wang, 2001), 22.

⁹ Bonnicksen, 24. Also see Andrews, 3 and Mosher, “Infertility: Why Business Is Booming,” *American Demographics* 9 (July 1987): 43.

¹⁰ Andrews, 3.

¹¹ May, 213.

¹² Anna Quindlen, “Baby Craving: Facing Widespread Infertility, A Generation Presses the Limits of Medicine and Morality,” *Life* 10 no. 6 (June 1987): 23.

naively, according to this journalist—thought they could have it all. The media told them that they did not prioritize as they should have, and that by postponing childbearing to advance their careers, they made a critical error. In the same article, the author noted that the number of women delaying their first pregnancy until their thirties had quadrupled in the previous twenty years, and one infertility specialist pronounced that they “[paid] the price for waiting.”¹³ And pay the price, they did. Infertile Americans were often desperate to have children during the 1980s, and willing to pay exorbitant fees for a chance to become biological parents. One could not put a monetary value on having a child during this pronatalist decade, as some members of the media attributed religious qualities to pregnancy when they coined the desire to have a baby as “the common prayer of the 1980s.”¹⁴ Among those kneeling at the altar of parenthood were the Baby Boomers, who were then between the ages of twenty-five and thirty-five years old and finally ready for these “long-postponed babies.”¹⁵

Social commentators such as journalists and politicians found that the Baby Boomers were nonchalant or even indifferent when it came to having children of their own. Having challenged social norms in their early adulthood, Baby Boomers often continued to do so after reaching adulthood. The Childfree movement of the 1970s was one aspect of this rebellion against society’s expectations that Americans should grow up and start their own families as soon as they were financially secure. But many members of the Baby Boom generation refused to follow this model, and instead chose a different kind of lifestyle for themselves. In a 1982 *Time* magazine article entitled “The New Baby Bloom,” the journalist castigated the “boom babies” for being selfish in their

¹³ *Ibid.*

¹⁴ J.D. Reed, “The New Baby Bloom,” *Time* 119 (Feb. 22, 1982): 52.

¹⁵ *Ibid.*

lifestyle choices when he wrote, “The boomers took up sex as if they were researchers for *Consumer Reports*. They transmuted the self into a tangible possession whose ownership required regulated doses of jogging, therapy, consciousness raising, and most important, singleness.”¹⁶ Baby Boomers’ response to their upbringing was to do the exact opposite of what they had known, claimed several journalists. In “Baby Fever,” the author provided the simple explanation that, “The specters of their mothers’ lives have haunted many women,” because having children translated into lost autonomy and independence.¹⁷ Such journalists noted that the Baby Boom women who decided not to have children also demonstrated their rebellion from their mothers’ generation by moving away from the suburbs and back into cities to pursue demanding careers that left no room for children. Nonetheless, popular magazines such as *Time* and *Newsweek* warned childless Baby Boomers that if they had not already experienced “baby craving,” they soon would, and it might just be too late.

Such warnings were also responses to the increasing presence of women in the professional world. Because men have historically been the main financial provider for the family, these articles referred to Baby Boom *women* moving back into the cities and having careers. Women have always worked in one form or another, although their work options were limited and their wages were lower than men’s. After the second wave feminist movement, though, women entered the work force in new ways that afforded them the opportunity and potential to become the primary economic providers for their families. The articles issued warnings for Baby Boom career women who would suffer from “baby fever” and be devastated to find out that they had waited too long. While

¹⁶ Reed, 55.

¹⁷ Bennetts, 325-326, 387.

both men and women comprised the intended audience for such articles, it was the women who were supposed to change their lifestyle choices.

The second wave of feminism that emerged in the 1960s asked women to question their role in a paternalistic society, and one manifestation of the backlash against this feminism took root in the 1980s: pronatalism. As conservatives gained political power, their renunciation of feminism gradually became more accepted in society, to the extent that feminists were portrayed in a manner that was almost villainous. Members of the mainstream media claimed that feminists had erred all along—they pushed the wrong agenda by not focusing on women as mothers. So, in their discussion of the shortcomings of feminism, the media promoted and extolled motherhood even as it pointed infertile women to reproductive technologies.

As part of this backlash, the media charged feminists with distorting relationships between men and women so completely that neither gender knew how to interact with the other. Mona Charen, the author of a *National Review* article appropriately titled “The Feminist Mistake” argued that feminists emphasized the wrong agenda and refused to admit their mistakes.¹⁸ Another article in *Vanity Fair* also charged feminists with alienating the vast majority of American women. In “The Awful Truth about Women’s Lib,” Erica Jong wrote that the feminist movement sacrificed its “enormous political constituency” by concentrating on issues such as “lesbian rights and the E.R.A.” instead of “pragmatic problems of working mothers.”¹⁹

While Charen admitted that she did not consider the feminist movement “an unredeemed disaster,” she emphasized her disapproval of what she perceived to be the

¹⁸ Mona Charen, “The Feminist Mistake,” *National Review* (March 23, 1984): 25.

¹⁹ Erica Jong, “The Awful Truth about Women’s Lib,” *Vanity Fair* 49 (April 1986): 93.

feminist agenda.²⁰ Charen included a list of achievements of the women's movement: "high incomes, our own cigarette, the option of single parenthood, rape crisis centers, personal lines of credit, free love, and female gynecologists."²¹ However, she stated unequivocally that "In return, [the women's movement] has effectively robbed us of the one thing upon which the happiness of most women rests—men."²² This particular author paid homage to the women's movement by noting its triumphs, but ultimately decried its leaders for failing to realize the importance of men.

Other authors accused feminism of failing even to improve women's lives financially. For example, one journalist wrote that in 1939, "American women earned sixty-three cents on the dollar for every dollar earned by men. Fifty years later, after a flood of feminist books, a decade of feminist conscious-raising, and a massive entry of women into the marketplace, American women earn sixty-four cents on the dollar earned by men."²³ Once again, the feminist movement was denounced for its failure to attain its goals, casting feminists as scapegoats for women's ongoing inequality to men.

Erica Jong argued that the feminist movement had taken attention away from the real issues that interested women—maternity leave, for example. She pointed out that ongoing lack of federal support for pregnant women allowed employers to fire those who went on leave to have a baby.²⁴ Thus, Jong argued that if feminists operated in the best interests of American women, they would focus on gaining federal initiatives for working mothers. In these ways, architects of the backlash against feminism promoted pronatalist

²⁰ Charen, 25.

²¹ *Ibid.*

²² *Ibid.*

²³ Jong, 93.

²⁴ *Ibid.*

policies in the United States by emphasizing feminists' failure to fight for children, mothers, and motherhood.

As part of the backlash against feminism, the media blamed infertility on the increasing trend of more women enjoying professional careers. Many witnesses observing this trend castigated working women for making the mistake of denying their maternal instincts and choosing their careers over having a family. These career women were warned, too, that they would come to regret their decision once they discovered that they may not be able to have everything they wanted. So, according to members of the media, when these women found that they could not get pregnant despite their beliefs that they should be able to conquer motherhood much like they conquered the business world, they were horrified and despondent.

Feminist author Susan Faludi argued that the media was full of useful answers for career women who wondered what they should have been doing in the 1980s. In *Backlash: The Undeclared War Against American Women*, Faludi wrote that, "In seeking the source of the 'infertility epidemic,' the media and medical establishment considered only professional women, convinced that the answer was to be found in the rising wealth and independence of a middle-class female population."²⁵ She also argued that a historical precedent of poor relations had already emerged between the media and feminism long before magazines published articles like Erica Jong's 1986 diatribe, "The Awful Truth about Women's Lib." During the first wave of feminism, the Victorian press had labeled feminists "shrieking cockatoos," identifying them further as a "herd of hysterical and irrational she-revolutionaries."²⁶ Faludi saw a consistency between what

²⁵ Faludi, 29.

²⁶ *Ibid*, 78.

she recognized to be the media's backlash against feminism in the 1980s and its behavior at the turn of the century.

Of course, the media, broadly stated, is in no way monolithic; nor has it ever been. Nonetheless, the media is a valuable forum for the expression of societal ideas and values in the past and the present. One can look to newspapers, magazines, movies, and music to understand the *zeitgeist* of a certain time period, and different forms of the media have the ability to shape what people think of themselves and their place in society. Historian Elizabeth Siegel Watkins gives tremendous power to the media by arguing that magazines, newspapers, and news reports, among many others, were particularly influential in serving as the public's primary source for the "social, moral, economic, and medical" implications of new technologies such as the birth control pill.²⁷ This phenomenon seems to have been true during the pronatalist 1980s, when different journals and magazines attempted to understand the "epidemic" of infertility in America and present solutions to what seemed a sudden and pervasive problem.

Early articles announcing America's infertility problem broached the subject cautiously. One 1982 article warned women that there was "*almost* [emphasis added] an epidemic of fertility problems" in the United States.²⁸ Other magazines avoided absolute statements by writing that it was "hard to tell," but speculating that "infertility *may* [emphasis added] be on the rise."²⁹ One article tracked this presumed rise in infertility, correlating it with an increase in doctors' prescriptions for fertility drugs. Such assumptions could be questionable given the varying degrees and definitions of infertility and the increased pressure to have children.

²⁷ Watkins, 6.

²⁸ Bennetts, 387.

²⁹ Clark, 102.

Nonetheless, regardless of incomplete evidence, warnings of infertility and its causes flourished in the popular culture of the 1980s. During this decade, journalists became less reserved in their discussions of infertility when they began pointing to “American women’s present tendency to postpone marriage and childbearing” as the foremost cause of infertility.³⁰ The occurrence of endometriosis and pelvic inflammation increase with age, but most researchers believed that women’s fertility did not begin to diminish until after the age of thirty-five. However, medical journals published a French study of 2000 women indicating that fertility problems began quite a bit earlier. Thus, doctors Alan DeCherney and Gertrude Berkowitz of Yale recommended in a 1982 *New England Journal of Medicine* “that career women reconsider the decision to postpone having children.”³¹

By at least one assessment, Berkowitz and DeCherney’s article underlining the results of the French study led many professional women in their late-twenties and early-thirties to feel “depressed, panicked, and betrayed.”³² Apparently, the disquieting article had a domino effect, because the reaction of the distressed women left at least one New York man alarmed. The *Mademoiselle* article that explored the reactions to the French study quoted the unnamed man as half jokingly telling one of his friends to “look out,” because “Every woman in New York approaching thirty wants to get married this week.”³³ This man’s perceptions demonstrate the power of the media by showing the effects that one study can have. Once stories such as this become sensationalized, one can hardly turn the tide of the popular response. And, while most Americans surely did

³⁰ *Ibid.*

³¹ Clark, 105.

³² Christopher Norwood, “The Baby Blues: How Late Should You Wait to Have a Child?” *Mademoiselle* 91 (October 1985): 174.

³³ *Ibid.*

not read the French study, and did not even see the *New England Journal of Medicine* article, the alarming news that infertility could begin earlier than expected pervaded the popular press.

After the frantic response, the American Fertility Society attempted to publicize a more reliable version of the statistics regarding age and infertility. According to their calculations, “a twenty-five-year-old woman has a 75 percent chance of conceiving a child after six months of trying. In the late twenties, that drops to 47 percent; in the early thirties, 38 percent; in the late thirties, 25 percent, and after age forty, 22 percent.”³⁴ However, when journalists found that the French study had considerably exaggerated the early onset of infertility, the corrected reports were relegated to the back sections of newspapers and magazines where they went unadvertised and unnoticed.³⁵ The media seemed to find this news less newsworthy than the original cautionary tale, so many people who were shocked and disturbed by the original message never enjoyed the absolution that a follow-up story could have provided.

The media also attempted to be proactive in their dire warnings to career women, when they said that much like housewives, working women would soon find themselves posing the same question: “Is this all there is?”³⁶ Barbara Ehrenreich, Ph.D., and fellow at the Institute for Policy Studies, argued that career women believed feminism promised fulfillment through work that they did not believe they could achieve as homemakers.³⁷ However, despite women’s beliefs that careers would provide satisfaction, Ehrenreich

³⁴ Andrews, 30.

³⁵ Faludi, 26-35.

³⁶ Reed, 54.

³⁷ Bennetts, 326.

and others insinuated that career women would be plagued by the same crisis of confidence, only to find themselves desiring something more: a family of their own.

The media told these women that they could find themselves among the infertile if they did not hurry. “Baby Fever,” an article in *Vogue* magazine, provided the example of a successful photographer who invested great sums of money and a lot of energy into having a child, only to give up unsuccessfully at age fifty. The article’s author portrayed her among “those seized by last-minute desperation” who “often go to extraordinary lengths to conceive.”³⁸ The author expressed a sense of sadness over women who had finally decided to have a child but could not do so because they had waited too long. The journalist, Leslie Bennetts, failed to consider the possibility that these women might have been infertile even in their reproductive prime. Determined to provide cautionary tales, such articles warned readers to make thoughtful decisions so they would not share the same fate as their unfortunate, infertile counterparts.

And the media celebrated such occurrences and realizations, utilizing the “bandwagon” advertising technique on career women during the 1980s by informing them that “everybody’s doing it.”³⁹ Countless articles listed successful actresses, bankers, CEO’s, and executives who felt incomplete before their decision to have a child. One journalist quoted the head of the Women’s Hospital of Texas who observed that “A lot of career women thought they wanted no babies. They’re uneasy at 30. They’re terribly uneasy at 35.”⁴⁰ The 1985 *Vogue* article, “Baby Fever,” described the phenomenon of working women who had previously determined that they were not suited

³⁸ Bennetts, 387.

³⁹ Reed, 54.

⁴⁰ *Ibid.*

for motherhood but were becoming “obsessed with having children.”⁴¹ Journalist Leslie Bennetts explored the possible causes of this sudden, “raging infatuation” that she dubbed “baby fever.”⁴² “Baby fever” was the American media’s term for the epidemic that caused an overwhelming desire to have a baby. Those most susceptible to “baby fever” were often women in their late twenties and thirties—women so overcome by this “biological imperative” that they would go to any lengths to have the opportunity to nurture a baby of their own.⁴³

Magazines told women that being an “elderly primagravida” was “glamorous.”⁴⁴ A well-titled article in *McCall’s*, “Hollywood’s Late-Blooming Moms,” discussed the phenomenon of the seemingly sudden turn to motherhood among some of Hollywood’s older leading ladies, and labeled this new leading role the actresses’ “enlightenment!”⁴⁵ The article suggested that these women, including: “Sally Field, 41...Mia Farrow, 42...Shelley Long, 39...Bette Midler, 42...Cybill Shepherd, 38...[and] Jaclyn Smith, 41” were great role-models for American women. Once again using the advertising tool of the bandwagon, this article extolled these actresses in their late-thirties and early-forties who were having their first children *and* still thriving in their careers. If feminism held that women could in fact have it all, the author implied that these women were exemplary feminists. Described as breaking down “outmoded taboos” in Hollywood that considered “movie stardom and maternity (at any age)...antithetical,”⁴⁶ these actresses were prototypes for all women challenged by the difficulties of balancing work with the family

⁴¹ Bennetts, 325.

⁴² *Ibid.*

⁴³ *Ibid.*, 326.

⁴⁴ Norwood, 175.

⁴⁵ “Hollywood’s Late-Blooming Moms,” *McCall’s* 116 (October 1988): 41.

⁴⁶ *Ibid.*, 41-42.

they desired. The article expressed enthusiasm for these women's abilities to challenge accepted norms in a feminist way that truly helped them "have it all." Nonetheless, the article suggested that working women should be like these Hollywood mothers by attempting to appeal to women before they really become too old to have children.

Thus, while some members of the American media castigated career women for taking their chances by waiting to start families and have children, still others celebrated "elderly primagravidas."⁴⁷ In the pronatalist 1980s, though, many people accepted the lesser of two evils: having children later rather than remaining childless forever. A 1982 *Time* article titled "The New Baby Bloom," focused primarily on the trend of older women having children for the first time. The author questioned why the U.S. suddenly witnessed "an astonishing 15.2% rise in the birth rate of women who were once thought to be slightly beyond their child-bearing years: the 30- to 44-year-olds."⁴⁸ In response to his question, the author quipped, "Is it some side-effect of jogging? Microwave ovens?" But of course, he found the answer in the women of the Baby Boom generation who fell within that age category and had postponed having children.⁴⁹ Although the article recognized the new trend and seemed to relish the fact that so many career women had chosen motherhood and managed to make it work, it was not without warning. The author mentioned that older mothers face a higher mortality rate and faced a greater risk of miscarriage, *if* they could even *get* pregnant.⁵⁰

Working Woman magazine countered some of the arguments made against older mothers nearly a decade later. The fact that the articles arguing for or against older

⁴⁷ The term "elderly primagravida" comes from Norwood, 175 while Reed illustrated the idea that the media celebrated women having their first child, even in their thirties.

⁴⁸ Reed, 52.

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*, 59.

mothers spanned almost an entire decade is indicative of the debate's lasting legacy. Nonetheless, a 1990 article titled "Older Mothers, Healthy Babies" challenged the notion that older women faced risks that younger women avoided including harm to themselves and their future children. Writing that "first births among women in their 30s and 40s have more than doubled—a trend that has raised some concern in the medical community," the author noted that although doctors appeared to be concerned, women were increasingly having their first babies later in life.⁵¹ Challenging the notion that older women faced medical risks for themselves and their babies that they may not have confronted at an earlier age, the article attempted to provide some encouragement to women who wanted to concentrate on their careers first. But this was a magazine written for working women. Most mainstream magazines encouraged women to reproduce in their early twenties to avoid many of the complications that "elderly primagravidas" faced.

So, on the one hand, the American media was pleased to see Baby Boomer career women *finally* making the decision to have families; yet at the same time it proffered a scathing critique of these "elderly primagravidas." Perhaps the reasoning behind this backhanded, Janus-faced celebration is that while the career-first-then-family model was acceptable for women who had already waited too long to have children, the pronatalist media did not want too many younger women to follow it. Even with this wake-up call, there were "not enough women over 35 having children to make up for all the younger women who are deciding not to have children."⁵² The media hoped to use the older, infertile career women who had "baby fever" as an example for these younger women

⁵¹ Carl Sherman, "Older Mothers, Healthy Babies," *Working Woman* 15 (August 1990): 93.

⁵² Conant, Jennet, et al., "No Baby On Board: Three's a Crowd," *Newsweek* (September 1, 1986): 68.

who thought that they did not want children. If there were too many younger career women choosing not to have children in 1986 when “No Baby on Board” was written, perhaps the article and others like it could persuade young women that having children was critical to achieving womanhood, and that the maternal instinct would one day catch up with them.

Some doctors’ observations and perceptions of “elderly primagravidas” provide another clue as to why doctors, journalists, and other social observers preferred women to have children at a younger age. “The New Baby Bloom” discussed the problems associated with dominant women when the author stated that, “While most obstetricians welcome their well-prepared new patients, some think the fertile fringe has gone too far.”⁵³ According to these doctors, educated career women asked too many questions, were “overly prepared,” “set guidelines,” and “want[ed] the best of everything.”⁵⁴ Clearly high expectations of modern medicine and a desire to be actively involved in their own birth experience made some doctors uneasy. Nonetheless, the journalist portrayed the patients as unreasonable and selfish. “The New Baby Bloom” quoted a University of Houston sociologist who declared, “the underside of this situation is that these are interesting women. They are wondrous products of the culture of narcissism. They want the best of everything.”⁵⁵ Moreover, the decision to have children “sometimes sounds like another acquisition in the conquest of the perfect life.”⁵⁶ One mother from New York did nothing to challenge the selfish quality of motherhood when she admitted that “the kid becomes one more status symbol, like a BMW. There’s

⁵³ Reed, 55.

⁵⁴ *Ibid*, 56.

⁵⁵ *Ibid*.

⁵⁶ Bennetts, 387.

definitely a quality of narcissism in all this.”⁵⁷ Furthermore, the journalist depicted these highly educated career women as having children out of their own self-interest, deeming them “self-congratulatory” when they achieved parenthood.⁵⁸ Journalists issued their concerns that “some observers fear that misguided choices are being made in the rush to squeeze motherhood onto the resume.”⁵⁹ By stating such claims, the journalist suggested that these women were not actually plagued by “baby fever” in its ideal form, but rather wished to have a child as one more accomplishment, further proving to themselves that they could do everything. By questioning these women’s motives to have children, articles such as this one called into question the *quality* of motherhood that such women offered to their children.

Because educated career women were presented as overbearing by the doctors and self-congratulatory when they succeeded in producing a baby, the media did not portray them as the type of mother that a child would want. Thus, the media discreetly challenged feminism by calling into question the ability of these women to achieve everything that they wanted. Presumably, career women who became mothers late in life could provide for their children’s financial well-being, but perhaps the more pressing query was: could these women overcome their own selfishness to provide for their children emotionally. Even the “affection and generosity” shown by these mothers was portrayed by the media as “being toasted with a self-congratulatory high visibility.”⁶⁰

Still others argued that American society needed educated women to become mothers. Among these were “birth dearth” theorists who believed that the United States

⁵⁷ *Ibid.*

⁵⁸ Reed, 58.

⁵⁹ Bennetts, 326.

⁶⁰ Reed, 58.

would begin to descend down a slippery slope if the most educated citizens did not start reproducing more children. Social theorist Ben Wattenberg alarmed American citizens with his 1987 book *The Birth Dearth*, which contributed to pronatalist policies during the latter half of the decade. Wattenberg argued that fertility in the Western world was dramatically decreasing, which caused him to pose the question: “*Over time, will Western values prevail?*” He noted that because of decreasing fertility, the populations in the Western world would be aging just as the less developed countries would be thriving. Wattenberg believed that if this birth dearth continued, the United States and other countries in the Western world would witness a decline in power and prestige.

Wattenberg used a variety of techniques to encourage educated Americans to have more children and put an end to the birth dearth. First, he pointed out that a continuing decrease in the fertility rate would lead to a shortcoming of “young, energetic workers and possibly fewer fresh ideas,” eventually eroding capitalism and the American way of life.⁶¹ Wattenberg was clearly concerned about the status of capitalism and the Western world, but its downfall was just one of the possible results of the birth dearth. While he appealed to his readers’ sense of nationalism and the preservation of capitalism and the American, he also appealed to a sense of guilt when he declared the decision to remain childless a liability for the extended family. “If they don’t have children, and if the potential grandparents then don’t have grandchildren, the potential grandparents end up deprived of one of life’s great joys for people of middle ages and above,” Wattenberg wrote.⁶² He even suggested that the childless could be stealing “much of the meaning of

⁶¹Wattenberg, 89.

⁶²*Ibid*, 110.

their [grandparents] life.”⁶³ Much like the mainstream media, Wattenberg implied that the childless by choice were selfish by calling attention to the birth dearth and its effects by noting the personal and societal implications of one’s decisions regarding parenthood.

He also responded to any rebuttals that the voluntarily childless might have. For example, in response to the claim that having children was too expensive, Wattenberg claimed that “there are costs, even higher for most people, in not having children.”⁶⁴

While he was referring to the emotional emptiness one may experience in the future, Wattenberg also explicitly argued that monetary loss was no excuse. Wattenberg noted that real income started declining in 1973, although the birth rate had begun its descent sixteen years earlier.⁶⁵ In Wattenberg’s mind, there was no correlation between income and having children because if income went down as people were having fewer children, the two were not necessarily causally connected. The trend of having fewer children began before disposable income decreased.

Wattenberg also made an appeal in the name of eugenics when he discussed a study involving the fecundity of different races, pointing out that because “blacks and Hispanics” were “more likely to be poor,” they had a higher fertility rate than “other Americans.”⁶⁶ The decreased birth rate of educated Americans of European descent, led Leon Bouvier and Robert Gardiner to project that by 2080, “the white European share of the U.S. population will be down from 80 percent to 60 percent, and still shrinking.”⁶⁷

Wattenberg claimed that the diminishing of the white American population would “create

⁶³ *Ibid.*

⁶⁴ *Ibid.*, 112.

⁶⁵ *Ibid.*, 117.

⁶⁶ *Ibid.*, 112.

⁶⁷ *Ibid.*

social turbulence and instability.”⁶⁸ Such warnings of political instability are eerily familiar, as these racist ideas are in keeping with the early eugenics movement in the United States.

Thus, Wattenberg and the “birth dearth” theorists who perpetuated such ideas utilized a number of methods to exhort educated women to have children. First, they tried to promote pronatalism by demonstrating the ways the entire world would benefit from the fertility of these women. Then, “birth dearth” theorists informed educated women that their parents wanted grandchildren, and that remaining childless had inherent emotional costs that outweighed the economic costs of having children. Finally, if that did not work, Wattenberg used the language of racism and eugenics. While the influence of this book cannot be precisely measured, the “birth dearth” theorists held and perpetuated an extreme version of this pronatalism, and their views are useful in understanding the pro-child nature of the 1980s. These theorists displayed just how nervous some people were about the personal choices made by successful, intelligent career women. Because these women chose either to remain childless or have children later in life, some social theorists declared the American way of life in jeopardy economically and socially.

Therefore, eugenic concerns played a significant role in the sudden reproductive push in the pronatalist 1980s. Fears abounded that the well-educated white constituencies were having too few children. Harvard psychologist Richard Herrnstein added fuel to the fire with a 1989 article he wrote for *Atlantic* titled “IQ and Falling Birth

⁶⁸ *Ibid*, 112.

Rates.”⁶⁹ According to Herrnstein, the most intelligent women of all races were not doing their part when it came to reproduction. Remaining unconcerned about the natural decline in reproduction that often occurs in modern societies, the redistribution of childbearing which left procreation largely to the lower classes troubled him.⁷⁰ Concerns about diminishing intelligence led him to make a few suggestions that he thought would reverse the trend. Like most eugenicists, fear of what he believed to be the faltering American race was more pressing than achieving social justice. While suggesting that concessions be made to help career women become mothers, he also proposed that the government pay for the abortions it sanctioned, and that the welfare system be re-structured to withdraw government support that might entice poor women to have more children.⁷¹ Herrnstein claimed that he was mainly concerned with the IQ rates in the United States and argued that since “parents and children tend to have comparable levels of measurable intelligence, the average intelligence of the population will decline across generations.”⁷²

“Birth dearth” theorists noted that educated women were likely to have fewer children, because they were more aware of the explicit costs involved in raising children. They stated that most research done in the field indicated that “the less intelligent people are, the less likely they are...to be influenced by the delayed consequences of their behavior.”⁷³ So, in opposition to his goal, the author insinuated that if less intelligent people thought more about the costs of having children beforehand, they, too, would have

⁶⁹ Geoffrey Cowley, “A Confederacy of Dunces: Are the Best and the Brightest Making Too Few Babies?” *Newsweek* (May 22, 1989): 80.

⁷⁰ *Ibid.*

⁷¹ *Ibid.*

⁷² R.J. Herrnstein, “IQ and Falling Birth Rates,” *The Atlantic* 263 (May 1989): 76.

⁷³ *Ibid.*, 74.

fewer babies. In “IQ and Falling Birth Rates,” Herrnstein correlated the falling national average IQ to the reduction of children produced by educated women. Thus, by arguing that the United States was doomed to become a “confederacy of dunces,”⁷⁴ the “birth dearth” theorists set an alarmist tone. By doing so, these social observers escalated the pronatalist rhetoric of in the 1980s.

So, during the pronatalist 1980s, social observers often focused on the act of having children and the advantages of parenthood. While the media advertised, discussed, and denounced “the feminist mistake”⁷⁵ of forsaking motherhood, the opposite side of the coin was idealized. During this decade, the backlash against feminism gained ascendancy and American women confronted a choice: feminism or the backlash? The American media demonstrated the conflicting notions of womanhood in numerous articles devoted to feminism, career women, motherhood, and infertility. While some supported women’s entrance into the workforce, others argued that it only took attention away from what really mattered: families. Some women discovered that on their own, as demonstrated by the fifty-year old photographer who failed in her attempts at having children, while others, like “Hollywood’s late-blooming mothers” found success.

Policy decisions on IVF in the late 1970s and the early 1980s and then again in 1992 reflected the media storm focusing on motherhood. While the Federal government placed a moratorium on research involving human embryos in 1975, the technology of IVF continued to develop in the United States, and the first “test-tube baby” was born on this side of the Atlantic in 1982. However, it was not until 1992 that the government took action in response to IVF policies with the Consumer Protection Act. Perhaps once

⁷⁴ Cowley, 80-81.

⁷⁵ Charen, 24-27.

women made it clear that they could have careers and children—the latter often at a later age—and the “birth dearth” theorists presented their reactionary ideas about the previous status of the United States, policymakers wanted to protect the older women who would continue to flock to the offices of infertility specialists attempting to have children of their own.

Conclusion

“Mr. Speaker, infertility is a major public health concern today. With a steadily increasing incidence of sexually transmitted diseases, and the trend toward delayed childbearing, it can only become a more serious concern in the future.”¹
 -Representative Ron Wyden, April 1992

During the 1970s the EAB focused on the protection of the fetus when it examined the moral and ethical acceptability of IVF, but by the late 1980s, the government had shifted its agenda from protecting the fetus to protecting the consumer-patient.² Richard Blackwell’s 1987 article, “Are We Exploiting the Infertile Couple” spurred governmental discussions in 1988 when the Subcommittee on Regulation, Business Opportunities, and Energy held hearings that would eventually lead to the Fertility Clinic Success Rate and Certification Act of 1992. The hearings, which focused on consumer protection issues, included discussions regarding the technology’s success rates, its advertising, the accreditation process for its specialists, and the possibilities of Federal regulations for IVF. Specifying standards to assure truth in advertising and the quality of physicians’ performance, the Fertility Clinic Success Rate Certification Act of 1992 is the Federal government’s only attempt to regulate IVF in the United States.

While the act attempted to protect patient consumers, it still did not provide Federal funding for scientific research. Concerned about false advertising, congressmen sought to regulate the promotion of the medical procedure rather than fund research to improve the success rates. Consumer protection involving IVF and other reproductive treatments represented a safe issue for policymakers, while questions of fetal research

¹ United States. Congress. House. *Fertility Clinic Success Rate and Certification Act of 1991*, 102nd Cong. 2nd sess., April 3, 1992.

² *Ibid.*

remained taboo. American society had come to accept the new reproductive technologies, but research on human embryos still remained politically contested in the United States because of its ties to genetic cloning and stem cell research.

The development of governmental involvement in IVF is unique, though, for, it was not until the media engaged this technology that the Federal government took an interest. The EAB found IVF to be ethically and morally acceptable, but American citizens and congressmen disagreed. The technology was controversial mostly because of its ties to abortion and the fact that it required research on human embryos for development. However, its opponents also articulated other arguments against the technology: it could lead to genetic cloning; women were used as mere laboratories; and its developers challenged nature. The EAB, which was required to decide the ethical acceptability of Federal funding for its research, was disbanded shortly after it deemed IVF ethically acceptable. Thus, the Federal government provided no funding for IVF research, leaving it to develop independently of governmental requirements.

However, the government eventually legislated to amend the problems that possibly could have been avoided if it had gotten involved in the technology's development initially. Because the Federal government was not involved in the regulation of IVF, clinics suffered no consequences for exaggerated rates of success, and their consumers paid exorbitant fees for "specialists" with sometimes limited experience. However, the Federal government eventually took action as the media increasingly paid attention to IVF and other reproductive technologies during the pronatalist 1980s. Most of the media's discussions of reproductive technologies were positive, surely helping erode some of the mystique that surrounded assisted reproduction. Few articles

challenged the field (Richard Blackwell's inside assessment), but rather, many journalists extolled the technology for its ability to help women who had decided to put their careers before having children. Having children later in life was better than having no children at all, the media implied, despite whatever selfish motives may have driven these career women to produce children of their own. IVF provided a way to turn back the biological clock, and the popular media often hailed the technology for this ability. So, around the same time that Blackwell called for action in his internal assessment of the field, the mainstream media showed Americans the positive social values of IVF. Only then did the government respond.

The Federal government first denied IVF's legitimacy by refusing to provide Federal funding for research on it. Because technology and the research methods that the study of IVF employed were controversial, the DHEW disbanded the only decision-making board that could sanction funding for this research in 1980. As the technology developed, independently of the Federal government, it permeated society and many Americans came to accept IVF as harmless, useful, and conventional. The media displayed this acceptance and often praised IVF in articles such as "Test-Tube Triumphs," "The New Baby Bloom," and "Baby Fever." The media demonstrated mainstream American approval of the technology, and such articles helped spur government action.

The policy history implications of this study are important. The Federal government responded to IVF in two very different ways over the course of little more than a decade. It first denied that it had any responsibility or stake in the new reproductive technology by refusing to fund its research and development. At the end of

the pronatalist 1980s, when the mainstream media accepted and promoted IVF, however, policymakers decided that government action was necessary to protect the consumers of IVF from its developmental path for which the American government was at least partially responsible.

Questions regarding whether or not the government should fund such ventures or whether it is the Federal government's duty to police the health care field remain controversial. IVF, ET, and GIFT have increasingly become socially acceptable, but research on human embryos still remains politically contested in the United States. And, as can be see in the stem cell research debate, the issues of the presumed evils of eugenics still plague our society.³

³ Kevles, 297.

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