

**Maternal-State Conflicts:
Claims of Fetal Rights & the Well-being of Women & Families**

Sponsored by **The National Advocates for Pregnant Women and
The Mt. Sinai-Based Clinical Education Initiative**

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January 25-27, 2002, Mt. Sinai Hospital, New York City

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Saturday, January 26

9:00-9:30 Registration and Breakfast

9:30- 11:00 Welcome & Opening Plenary: *Reframing the Debate: Maternal-State Conflicts – Controlling Women & Families in the Name of Fetal Rights.* Goldwrum Auditorium

This session will feature an overview of the history, most recent emergence, and consequences of the maternal-state conflicts. Panel members will discuss so-called “fetal rights” policies and practices that are in effect today, as well the role of race, class, and gender in who is affected by such policies. The plenary will also address the relevance of the maternal-state conflict to a variety of different movements, examining how a wide range of progressive causes have a stake in this debate/issue.

Moderator: Barbara Y. Phillips, Program Officer, Peace & Social Justice Program, The Ford Foundation

Panelists:

Rachel Roth, Ph.D., Assistant Professor of Political Science and Women’s Studies, Washington University, Author of *Making Women Pay: The Hidden Costs of Fetal Rights*

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Dorothy Roberts, J.D., Professor of Law, Northwestern University, Author of *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty* and *Shattered Bonds: The Color of Child Welfare*

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Lynn M. Paltrow, J.D. Executive Director, National Advocates for Pregnant Women

11:00-11:30 Break

11:30-1:00 Breakout Session (Period One)

Goldwrum Auditorium: *Creating Crises: Crack Moms, Drunk Babies, and Welfare Queens*

Consciously or unconsciously, many people accept the framework of “maternal-fetal conflicts.”

Images of neglectful mothers and vulnerable newborns, combined with flashy catch phrases like “crack moms,” “crack babies” “FAS babies,” and “welfare queens,” have been used effectively to create a sense of crisis and a politic that blames individual mothers for larger social problems. This panel will discuss the history, the research and myths underlying these labels, the policies that have resulted, and the consequences to women and children.

Moderator:

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Mary Faith Marshall, Ph.D., Professor of Medicine and Bioethics, Kansas University Medical Center

Panelists:

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Deborah A. Frank, M.D., Researcher, Boston Medical Center

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Elizabeth M. Armstrong, Ph.D., M.P.A., Sociologist, Princeton University

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Rickie Solinger, Historian and Author of *Wake Up Little Susie: Single Pregnancy and Race before Roe v. Wade* and *Beggars and Choosers: How the Politics of Choice Shapes Adoption, Abortion, and Welfare in the United States*.

Breakout Room One (across from Goldwrum): *Fetal Images and Ideologies*

Anti-abortion groups have long used the image of the fetus as an organizing tool. This image has also influenced popular and political culture, affecting everything from what laws are proposed, to how health care is provided. This session will explore images of the fetus, mother, pregnant woman, and drug-using pregnant women in popular culture, focusing on the effect of these images on such things as the recent stem cell debate and on our understanding of maternal-state conflicts.

Moderator:

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Alexandra Cox, Office of Legal Affairs, The Lindesmith Center – Drug Policy Foundation

Panelists:

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Carol Mason, Ph.D., Rockefeller Scholar at Marshall University

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Janet Golden, Ph.D., Associate Professor of History, Rutgers University

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Drew Humphries, Ph.D., Professor of Sociology, Rutgers University and Author of *Crack Mothers, Pregnancy, Drugs, and the Media*

Breakout Room Two (room 282, second floor): *Are Claims of Fetal Rights New?*

Over the course of history, claims of fetal rights have arisen in various contexts. Panelists in this

session will explore the history of fetal rights claims, placing current claims in historical context, and specifically addressing their recent rise to prominence in medical and legal contexts.

Moderator:

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Ellen Chesler, Senior Fellow and Program Director, Reproductive Health and Rights, Open Society Institute, Author of *Women of Valor: Margaret Sanger and the Birth Control Movement in America*

Panelists:

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Reva Siegel, J.D., Nicholas deB. Katzenbach Professor of Law, Yale Law School

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Janet Gallagher, J.D., Former Director of the ACLU Reproductive Freedom Project

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Mary Mahowald, Ph.D., Professor, Department Obstetrics and Gynecology, University of Chicago

1:00-2:00 Lunch

1:30 – 2:00 Optional Informal Events

Breakout Room One (across from Goldwrum)

Informal Discussion: *Is Cloning a Reproductive Right?*

How feminists can oppose genetic engineering without supporting fetal rights. An informal discussion with Judith Levine (Center for Genetics and Society) and Rajani Bhatia (Committee on Women, Population and the Environment).

Goldwrum Auditorium

Presentation of SisterSong Collective Video

2:00-3:30 Breakout Sessions (Period Two)

Goldwrum Auditorium: *The History of Maternal-Fetal Medicine or How the Mother Magically Disappears*

This session will examine the advent of “maternal-fetal” medicine and the medical community’s role in the creation of so call “maternal-fetal” conflicts. Panelists will also discuss the role of new technologies, such as 3-D sonogram imaging, and address the beliefs, attitudes, and policies that underlie current approaches to the medical treatment of pregnant women. Panelist will offer alternative frameworks for addressing and defining this conflict.

Moderator:

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Howard Minkoff, M.D., Distinguished Professor Ob/Gyn, SUNY Downstate,
Chair Ob/Gyn Maimonides Medical Center

Speakers:

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Wendy Chavkin, M.D., M.P.H., Clinical Professor of Ob/Gyn and Public Health, Columbia University, Mailman School of Public Health, Heilbrunn Center for Population and Family Health

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Lisa Harris, M.D., Lecturer, Department of Obstetrics and Gynecology, University of Michigan, Medical Director, Planned Parenthood of Mid-Michigan

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Monica Casper, Ph.D., Associate Professor of Sociology, University of California, Santa Cruz, Author of *The Making of the Unborn Patient: A Social Anatomy of Fetal Surgery*

Commentator:

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Ellen J. Stein, M.D., M.P.H., Section Chief, Epidemiology and Evaluation, Maternal & Child Health Branch of the State of California Department of Health Services

Breakout Room One (across from Goldwrum): *Providing Care for Pregnant Women: Addressing Hard Cases & Finding What Works*

Some argue that fetuses are best protected by threatening pregnant women with punishment for behavior deemed “dangerous.” However, many health care providers and outreach workers who have direct contact with pregnant women have found alternative approaches more effective. This panel will discuss programs and services, including harm reduction and outreach models, that are effective, respectful, and humane.

Moderator:

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Machelle Allen, M.D., Assistant Professor of Ob/Gyn, New York University School of Medicine

Panelists:

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Ann Boyer, Ob/Gyn, Substance Abuse, HIV, and Women’s Care; Faculty of Mt. Sinai School of Medicine

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Joy Rucker, Executive Director, Casa Segura

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Ellen Miller-Mack, Nurse Practitioner, Brightwood Health Center, Springfield, Massachusetts

Breakout Room Two (room 282, second floor): *How Medicine & Medical Care are Co-opted by Fetal Rights*

Fetal rights claims are often used to justify intrusions into health care that do not benefit women or children. In fact, these measures often serve to drive women away from health care and to compromise the relationship between provider and patient. In this session, health care providers, advocates, and recipients will talk about the ways in which claims of fetal rights have affected their ability to provide or receive appropriate health care.

Moderator:

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Wyndi Anderson, National Organizer, National Advocates for Pregnant Women

Speakers:

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Hytham Imseis, M.D., Maternal-Fetal Medicine, Assistant Residency Director, MAHEC
Department of Ob/Gyn

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Terry McGovern, J.D., Founder of the HIV Law Project

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Paula Guess, Plaintiff in *Ferguson v. City of Charleston*

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Juanita Williams, HIV/AIDS Educator, Consultant, & Speaker

3:30-4:00 Break

4:00-5:30 Breakout Sessions (Period Three)

Goldwrum Auditorium: *Women as Bystanders to Their Own Bodies*

In many ways, fetal rights claims have served to position women as bystanders to their own bodies under the law, by denying them fundamental rights to bodily integrity and self-determination. Panelists in this session will examine this trend, exploring how fetal rights claims shape everything from tort law, to the workplace, to health-law, to end of life decision-making policies.

Moderator:

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Julie Chartoff, J.D., Staff Attorney, Harlem Legal Services

Panelists:

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Lucinda Finley, J.D., Professor of Law, SUNY Buffalo Law School

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Cynthia M. Dennis, J.D., Associate Clinical Professor of Law, Rutgers Law School - Newark

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Cynthia Daniels, Ph.D., Associate Professor of Political Science, Rutgers University, Author of *At Women's Expense: State Power and the Politics of Fetal Rights*

Breakout Room One (across from Goldwrum): *Prosecuting and Punishing Pregnant Women:*

Protecting Fetuses or Controlling Women?

In the last decade, approximately 200 pregnant women and new mothers have been arrested on claims of fetal abuse. While some women are being sent to jail because they failed to “protect” the fetus, other women in INS and other forms of detention find that they cannot get prenatal care and are subjected to searches and conditions that endanger them and their pregnancies. Pregnant women with HIV might be punished for making informed treatment refusals, or women might find that their welfare or health benefits are cut if they continue a pregnancy to term. In particular, panelists in this session will discuss the range of punitive and contradictory responses to pregnant women and the ways in which these reveal agendas unrelated to so-called “fetal rights.”

Moderator:

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Daniel Abrahamson, J.D., The Lindesmith Center – Drug Policy Foundation

Panelists:

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Rae Banks, Ph.D., Assistant Professor of African American Studies, Syracuse University, Co-Author of *Dehumanizing Discourse, Law, and Policy in America: A “Crack Mother’s” Nightmare* (forthcoming)

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Sherry Leiwant, Senior Staff Attorney, NOW Legal Defense and Education Fund

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Rajani Bhatia, Coordinator, Committee on Women Population and the Environment

Breakout Room Two (room 282, second floor): *Legislation and Strategy: How Do Legislators and Lobbyists Deal With Claims of Fetal Rights?*

This panel will examine legislation and policy on the federal and state levels. Panelists will discuss pending federal legislation including the so-called Unborn Victims of Violence Act, as well as “fetal-rights” policies at the state level. Legislators and lobbyists will discuss how they have responded to these proposals, examine both successful and unsuccessful legislative battles on the issue, and discuss how future battles might be reframed to address the real issue of maternal-state conflict.

Moderator:

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Leslie R. Wolfe, President, Center for Women Policy Studies

Panelists:

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Honorable Deborah J. Glick, New York State Assembly

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Necole S. Irvin, Government Relations Director, National Abortion Federation

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Rudy Williams, Health Policy Analyst

Sunday, January 27

9:00-9:30 Registration and Breakfast

9:30-11:00 Breakout Sessions (Period One)

Goldwrum Auditorium: *Reproductive Health Care and Claims of Fetal Rights*

While it is widely understood within the reproductive rights movement that fetal rights measures are part of a long term strategy to undermine the right to have an abortion, less attention is paid to how these claims affect access to a wider range of reproductive health care, including alternative birthing providers/settings. This roundtable discussion will explore the relationship between fetal rights claims and reproductive health care access, focusing on finding the common ground between such groups as midwives and abortion rights activists in the search for responses to claims of fetal rights.

Moderator: Kelli Conlin, Executive Director, National Abortion and Reproductive Rights Action League, New York Chapter

Panelists:

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Deanne R. Williams, C.N.M., M.S., Executive Director, American College of Nurse-Midwives

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Leslie M. Watson, Campaign for Access and Reproductive Equity/NNAF (C.A.R.E.2000)

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Louise Melling, Associate Director, ACLU Reproductive Freedom Project

Breakout Room One (across from Goldwrum): *In the Name of the Children*

Policies based on claims of fetal rights are often justified by the argument that they are protecting children. Can reproductive rights and children's rights advocates find common ground in their efforts to protect women, children and families? This roundtable discussion will feature child welfare experts and persons with personal experiences, examining policy implications, and exploring opportunities for collaboration.

Moderator:

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Corrine Carey, J.D., M.A., Director, Harm Reduction Law Project, Urban Justice Center

Panelists:

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Steve Hornberger, Director of Behavioral Health, Child Welfare League of America

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Barbara Teichner, J.D., Counsel in the *Matter of the Unborn Child of Julie Starks, Appellant, vs. State of Oklahoma, Appellee*

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Julie Starks, Appellant

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Jane Spinak, J.D., Edward Ross Aranow Clinical Professor of Law, Columbia Law School
Commentator:

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Susan C. Boyd, Author of *Mothers and Illicit Drugs: Transcending the Myths*

Breakout Room Two (room 282, second floor): *Maternal-State Conflicts and Progressive Political Movements*

How are fetal rights claims connected to other political movements? How does the image of the drug-using pregnant women relate to so called "welfare reform" and other efforts to limit income support programs? Are these claims used to undermine coalitions for health care, disability rights, protection of the environment, and drug policy and prison reform efforts? This roundtable discussion will examine these issues and explore how our respective movements might be strengthened by a shared understanding of maternal-state conflicts.

Moderator:

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Sara Kershner, Director of National Organizing and Communication, Generation Five

Panelists:

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Sheigla Murphy, Director, Center for Substance Abuse Studies, Co-Author of *Pregnant Drug Users: Combating Stereotypes and Stigma*

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Amy Hirsch, J.D., Supervising Attorney, Community Legal Services, Inc., Philadelphia, PA, Author of "Some Days Are Harder Than Hard: Welfare Reform and Women With Drug Convictions in Pennsylvania"

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Nancy D. Campbell, Ph.D., Assistant Professor of Science and Technology Studies, Rensselaer Polytechnic Institute, Author of *Using Women: Gender, Drug Policy, and Social Justice*

11:00-11:30 Break

11:30-1:00 Breakout Sessions (Period Two)

Goldwrum Auditorium: *Strategies for Legislation and Litigation*

This workshop will explore approaches for activists and advocates seeking to overturn or combat fetal rights legislation and litigation.

Facilitators:

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Janet Gallagher, J.D., Former Director of the ACLU Reproductive Freedom Project

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Rudy Williams, Health Policy Analyst

Breakout Room One (across from Goldwrum): *Media and Communication*

This session will feature communication strategies for people and organizations who are opposing fetal rights measures. In addition to examining current images in the media, panelists will address concerns about perceived damage that might occur from being in alliance with controversial issues/groups, how to talk to the media about fetal rights issues, counter-imaging strategies, and redefining issues as maternal-state conflicts.

Facilitators:

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Delacey Skinner, Communications Consultant

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Tony Newman, Director of Communications, The Lindesmith Center – Drug Policy Foundation

Breakout Room Two (room 282, second floor): *Organizing and Coalition Building*

This workshop will address how to organize and build coalitions to respond to so called fetal rights measures, how to talk to the opposition, community organizing, and what types of actions organizations and their members can take to oppose attacks on pregnant women and a range of progressive issues in the name of fetal rights.

Facilitators:

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Wyndi Anderson, National Organizer, National Advocates for Pregnant Women

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Deborah Small, Director, Public Policy & Community Outreach, The Lindesmith Center – Drug Policy Foundation

1:00 – 2:30 Closing Lunch

Goldwrum Auditorium 1:30 – 2:30: *Closing Commentary: Where Do We Go From Here?*

Speakers:

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Lynn Paltrow, Executive Director, National Advocates for Pregnant Women

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Deborah Small, Director, Public Policy & Community Outreach, The Lindesmith Center – Drug Policy Foundation