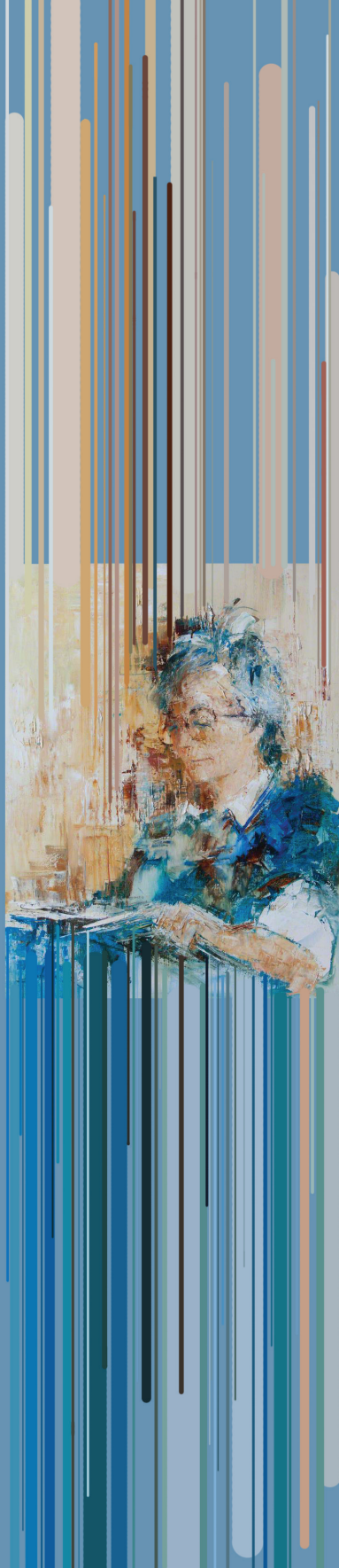


MARY WARNOCK

Ethics, Education
and Public Policy
in Post-War
Britain

PHILIP GRAHAM





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ISBN Paperback: 9781800643383

ISBN Hardback: 9781800643390

ISBN Digital (PDF): 9781800643406

ISBN Digital ebook (epub): 9781800643413

ISBN Digital ebook (mobi): 9781800643420

ISBN XML: 9781800643437

DOI: 10.11647/OBP.0278

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Cover design by Anna Gatti.

8. Infertility

1982 was a busy year for Mary. With the passage of the 1981 Education Act, her responsibilities around special education had come to an end, but she continued to be much in demand as a speaker on the topic both at home and abroad. She had already been asked to take up new public roles. In particular, she was chairing a Home Office committee on the use of animals in the laboratory. In September 1981, Geoffrey had been appointed Vice-Chancellor of the University of Oxford. Mary was expected to fulfil the role of the Vice-Chancellor's wife, which involved a great deal of entertaining. Her five children had all now left home and mostly entered on their own careers, but the youngest, Maria, at twenty-one, was still at art college. Mary saw a great deal of all of them, feeling she was 'just about (but no more) keeping [her] head above water.'¹

So, it was not a reason for immediate joy when, in June 1982, she was telephoned by the Department of Health and Social Services (DHSS) to ask if she would chair a committee that was to be set up to look at the issues surrounding new fertility treatments.² Just four years previously, Robert (Bob) Edwards, a physiologist, and Patrick Steptoe, an obstetrician and gynaecologist, had successfully achieved the live birth of a baby by in vitro fertilisation. A husband's sperm had been introduced to his wife's ovum in a laboratory test-tube and had fertilised it. The now fertilised egg had then been transferred into the wife's womb and had developed normally until birth when a healthy baby girl had been born. Now there was an urgent need to consider whether research into the procedure should be regulated, and, if so, in what way. Bob Edwards himself, more than a decade earlier, had expressed a wish that this should at least be considered.³

For the first time in her life, Mary was hesitant about taking on a new role. Becoming involved in what was both literally and metaphorically

a 'sexy' subject, would inevitably bring unwanted publicity to Geoffrey and herself. But they discussed it together, and as they did so, she became increasingly gripped by the moral and philosophical implications.⁴ She had always been interested in the interaction between morality and the law and this was a classic example of the nexus between the two. So, when the letter of invitation came from Norman Fowler, the Secretary of State for Health and Social Services, she agreed to chair what was to be called the Committee on Human Fertilisation and Embryology. She was aware this would involve a new way of life, but she was prepared for it.

Infertility has many known causes and sometimes defies medical explanations. Among the more common known causes are male impotence and infections of the female reproductive organs. A less common reason is a low sperm count or even the absence of any sperm at all in the man's ejaculate. This is relatively easily diagnosed by examining the sperm under a microscope. It is by no means always treatable. In the absence of effective treatment, the couple are often faced with difficult decisions. They might opt to remain childless or to adopt. Alternatively, they may choose AID (artificial insemination by a donor). The technique for achieving a successful result by AID was pioneered in the mid-nineteenth century in New York, but the practice did not become available in the UK until the late 1930 and 1940s, when two women doctors, Margaret Jackson in Exeter and Mary Barton in London, started to perform it. Initially this involved obtaining a sample of fresh semen from a donor, often a medical student, who had recently masturbated. The semen was placed just inside the womb or at the opening of the woman's cervix. Occasionally, if the husband did produce some sperm, this was mixed with that of the donor before it was placed in the cervix (AID+H). Margaret Jackson carried out about 500 such inseminations between 1941 and 1971 with a considerable degree of success.⁵ Later it became possible to store frozen semen and sperm banks came into existence.

As AID became more widely practised it was realised that there were significant legal and ethical problems associated with it. In 1948 the Archbishop of Canterbury, Geoffrey Fisher, had condemned the practice and recommended it should be criminalised.⁶ A government departmental committee under the chairmanship of Lord Feversham

eventually advised against the criminalisation of AID but recommended that children born by it should be regarded as illegitimate and the technique itself should be discouraged.⁷ A decade later however, in 1973, the Peel Committee, set up by the British Medical Association, recommended that AID should be available in a limited number of NHS-funded centres.⁸ What was the government to do?

While the AID debate rumbled on, the possibility of *in vitro* (test-tube) fertilisation was becoming more real. In December 1972, the Ciba Foundation organised a symposium on the topic 'Law and Ethics of AID and Embryo Transfer.' Bob Edwards and Patrick Steptoe presented a paper, 'Biological Aspects of Embryo Transfer,' which predicted that embryo transfer through the cervix, without the need for surgery, was a procedure which would soon be available to many childless couples.⁹ Legal issues were discussed by Olive Stone who pointed out that the birth certificates of AID children were generally falsified to make it appear that the biological father of the child was the husband of the mother who had given birth.¹⁰ As it happened, I attended this symposium and contributed in a minor way. I expressed some concern, which later turned out to be justified, about the distress that might be caused to individuals who learned later in life that their biological fathers were not as they had always assumed. I suggested that children born by AID should be told of their genetic origin before adolescence, during or after which they might discover it by accident with harmful effects to their mental health.¹¹ During the same symposium, Gordon Dunstan, a Professor of Moral and Social Theology, suggested the need for some sort of register of AID births.¹² Along the same lines, Hilde Himmelweit, the London School of Economics sociologist, suggested the need for practitioners of artificial insemination to be registered.¹³ Lord Kilbrandon, the senior judge who chaired the symposium, concluded it with the prescient statement: 'AID is here to stay. This symposium has been about what the law should do about it. The conclusion seems to be that the law has got to consider it not in a prohibitory way and perhaps only in a regulatory way so far as is required to make the technique acceptable to society.'¹⁴ So, many of the issues, including especially regulation, which preoccupied the committee that Mary was to chair, had been under discussion for at least a decade before the committee met.

Following their successful in vitro fertilisation (IVF) in a test-tube carried out in July 1978, Edwards and Steptoe treated a growing number of women with IVF with about a 33% success rate. As the numbers grew so did the public debate around the ethical issues raised by the IVF procedure and the need for an official response to the legal issues raised became more urgent. Media interest in a contentious subject with such obvious human interest was inevitable. For example, the *Daily Mail* initially showed great enthusiasm for the new technique and offered to raise funds for a building to house research facilities but as soon as the morality of the procedure began to be seriously debated, the newspaper withdrew its support.¹⁵ The issue became highly controversial. Hence the call from the Department of Health to Mary Warnock who had become the natural person to turn to when an authoritative view on moral and legal issues was required in the formulation of public policy. As far as is known, no one else was considered. The terms of reference of her committee were presented to her more or less as a *fait accompli*. They were: 'To consider recent and potential developments in medicine and science related to human fertilisation and embryology; to consider what policies and safeguards should be applied, including consideration of the social, ethical and legal implications of these developments; and to make recommendations.'¹⁶

Mary's scientific expertise in this field was notable by its almost complete absence. Typically for someone who had read Greats at Oxford, she had had virtually no education in biology, even at the most basic level. This was quite usual for women of her generation educated in private schools. It should be remembered however that there were a number of distinguished scientists and physicians in her family, particularly, as we saw in Chapter Two, on her mother's side. The first discussion she and Geoffrey had about the issues raised by the ethics of research focussed on the historical background. With their backgrounds in ancient Greek philosophy, naturally they turned first to the writings of Aristotle, who had opined that the rational soul was added to the body at forty days from conception in male embryos and at ninety days in females. In contrast, Thomas Aquinas, in the thirteenth century, when expressing his doctrine of Ensoulment, suggested that from the moment of conception, the embryo 'is endowed with an immortal soul' and must not be deliberately destroyed. This became the official doctrine of the

Roman Catholic Church, which continued to hold this view into the late twentieth century.¹⁷

With its Chair's knowledge of the issues dating only up to the thirteenth century, the level of more contemporary expertise among committee members was of great importance. Mary was presented with members suggested by the DHSS and asked if she had any further names to add or whom she wished removed. She did have deep-seated objections to one proposed member, a Catholic psychiatrist, who was regarded by the DHSS as a perfect candidate as he represented two interests. Mary had met this man previously when he had preached a sermon on the joys of sex at Hertford College. She was adamant about not being prepared to work with him. When the civil servant dealing with the matter asked her why, she said he gave her the 'creeps'.¹⁸ As it happens, although I never discussed the matter with Mary, I know exactly who this man, now long deceased, must have been and can confirm that others, including many of his colleagues, felt exactly the same about him. He was replaced by two other doctors, a Catholic neurologist and a psychiatrist.¹⁹

Fortunately, the proposed members of the committee were of high calibre. The more prominent among them included Anne McLaren, the Director of the Medical Research Council Mammalian Development Unit, Ken Rawnsley, a former President of the Royal College of Psychiatrists, David Davies, a scientist and previous editor of *Nature*, Dame Josephine Barnes, a highly articulate gynaecologist, and John Marshall, the Catholic neurologist referred to above.²⁰ The Committee was, according to Mary, efficiently served by Jeremy Metters, a senior doctor who went on to be Deputy Chief Medical Officer of Health at the DHSS and the young Jenny Croft, a civil servant, who came from a non-medical background.²¹ Although Metters thought that Jenny was out of her depth, Mary thought her good at her job. However, in her recollections of the committee she could not, with her strong sense of appearance, resist describing Jenny as 'generally dressed as a Watteau milkmaid, with huge skirts, beneath which emerged a frilly petticoat and little pointed-toe slippers.'²² When Mary hosted her and Jeremy Metters to dinner at Hertford College later, she was otherwise attired in 'a scarlet dirndl skirt, an electric-blue satin blouse, strained to bursting over her bosom, and a little scarlet hat perched sideways on her head.'

Jenny's appearance was a distraction when Mary was supposed to be engrossed in more weighty scientific matters.

The meetings of the committee were mostly held in large, windowless rooms in the DHSS Hannibal House building. Mary had a parking space there, but others had to negotiate the bleak, litter-ridden passages leading out of the Elephant and Castle Underground Station next door. Occasionally the unreliable air conditioning failed which gave everyone headaches.²³ All the same, Mary regarded the first meeting a success, largely because the background papers produced by Jeremy Metters were so clear and informative.

In the morning of the second meeting, Anne McLaren gave a lecture on the development of the embryo. She also described the various techniques which were used to deal with infertility. Those members of the committee who, like Mary, had little knowledge of human developmental biology, found this exposition invaluable.²⁴ Throughout the proceedings Mary turned to Anne for authoritative advice on the biology. Anne described how in the first week or two of life, the embryo is no more than a cluster of poorly differentiated cells and not, as often pictured, a little homunculus curled up inside the womb. In the afternoon, the committee took evidence from Geoffrey Dawes, a physiologist who was the Director of the Mammalian Development Unit in Oxford, and his team. He was a friend of the Warnocks, who since the 1950s and 1960s had been one of the group of young dons, described in Chapter Five, known as the 'dancing economists' because they gave informal dances in each other's houses. At one point, Geoffrey Warnock had been very briefly enamoured of Margaret, Geoffrey Dawes's wife, whom Mary rather liked. Meeting him again, Mary was reminded of how, while they were dancing together, Geoffrey Dawes had explained to her his work on pregnant sheep and their embryos. Giving evidence to the committee on this less romantic occasion Geoffrey Dawes made the case for the vital importance of continuing embryo research if the relatively poor success rate of IVF was to be improved.²⁵

David Davies, one of the committee members with a strong scientific background thought that Mary was a 'very good chairman, ran the committee well, though she could be tough at times.'²⁶ Jeremy Metters thought that she was an exceptionally good chairman.²⁷ Although,

as we have said, she knew little of the medical/biological details at the outset, she was never afraid to take him aside after meetings to elaborate on anything she felt she had not sufficiently grasped. He found her to be remarkably patient, only losing her temper on one occasion when Madeleine Carriline, a social worker member of the committee, accused her of ignoring the social work aspects of the issues.²⁸ John Marshall, the Catholic neurologist, was also impressed with Mary's chairing. 'There was no dragooning,' he said. 'When a divergence emerged, she would say 'Let's leave that and come back to it later—and you'd think "she hasn't realised"—but she knew very well and when you came back, you'd be surprised at how far the block had melted away.'²⁹ Mary thought that she herself sometimes got rather too involved in philosophical discussions with the witnesses. For example, in the course of taking evidence from an eminent Jesuit priest, she and he became engaged in a lengthy dialogue on the moral status of the early human embryo, while, she noticed, the rest of the committee looked profoundly bored, twiddling their thumbs and gazing at the ceiling as though they were just waiting for the philosophical argument to end.³⁰

The topics which the committee subsequently discussed and on which they had to pronounce were wide-ranging. Throughout, Mary tried to ensure that for every subject, in deciding on their recommendations, the committee had to answer two main questions. First, was the behaviour, technique or procedure under discussion morally wrong? And second, if it was morally wrong, should the law intervene to prevent it happening?³¹ She expanded on this approach in the Dixon Lecture given in Queen's University, Belfast in 1989.³² As a moral philosopher Mary was well placed to lead a discussion on the moral status of a new procedure. But she did not believe that her expertise put her in a privileged position to make moral judgements. Indeed, she rejected the arguments that a small number of moral philosophers, such as Peter Singer, had made at the time, that committees such as hers should be made up entirely of ethical experts.³³

There were, Mary suggested, two main ways in which people came to judgements as to whether a procedure was right or wrong. The first was to judge according to a pre-existing set of rules which, in Britain, would usually be established according to Christian principles. The

interpretation of church leaders might sometimes be required to decide what the teaching of the Bible was on any particular procedure, but nevertheless it was the highest court when it came to moral judgement. Alternatively, people could use the principle of utility. Utilitarianism, Mary wrote, laid down that 'an act is right if it benefits more people than it harms, wrong if the balance is the other way.' However, when it came to the issues on which her committee had to pronounce, Mary found there were serious problems with both approaches. The Bible could not be expected to pronounce on scientific advances which had not been dreamed of in biblical times. What point was there to look to the Bible for answers to questions about in vitro fertilisation? But the principle of utility has its problems too. If it is accepted that an embryo in the earliest stages of development amounts to little more than a cluster of cells, can this cluster meaningfully be said to experience suffering? If not, what is its claim to being an object of moral concern, and if it has no such claim or only a small claim, how does this alter the utilitarian balance of harms and benefits? Clearly a foetus, sitting in the womb in the thirty-second week of a pregnancy and capable of survival, must be regarded as an individual of moral concern. But is that the case thirty-one weeks earlier when it is only a cluster of a few cells?³⁴

At this point Mary turned to Hume, the eighteenth-century Scottish Enlightenment philosopher who, in his *Treatise of Human Understanding* (1748), wrote that morality 'was more properly felt than judged of.'³⁵ Moral sentiment, in the case of the issues the committee had been set up to consider, the *feeling* that a procedure was right or wrong, was crucial. This was not to say that rational, intellectual argument was unimportant. For example, someone might well feel that the donation of sperm by a donor to assist a woman to conceive was abhorrent, undoubtedly immoral. But then, having listened to the predicament of childless women, perhaps in the case of women from some ethnic minorities at risk of divorce if they were seen to be barren, the feelings of such a person might be moved to change. Of course, people's feelings might continue to differ even after they had heard a great deal of rational argument, but Mary was impressed with the degree to which members of the committee shared the same feelings about the issues they discussed.³⁶ Having said this, Mary's own feelings about a matter were, she readily admitted, not an infallible guide to the moral stance taken by wider society. For example, for reasons that will be discussed

later, she had feelings of moral abhorrence about surrogate births. Not long after the report was published, it became clear that her feelings were not widely shared and she admitted it had been wrong, especially as she had been chairing the discussion, for her to take such a firm view against surrogacy.

Agreement that a procedure was wrong by no means necessarily meant that there should be a law to ban it. Here Mary introduced into the debate the arguments that had been put forward by H. L. A. Hart, the Oxford Professor of Jurisprudence. He proposed a clear criterion to help decide whether morally wrong behaviour should be forbidden by law. The question should be asked whether 'the infringement of liberty involved would itself be morally right or wrong?'³⁷ This might arise on the practicalities of enforcing a new law. For example, if there were a law against AID, because the procedure is relatively easy to carry out with a low level of professional skill, in order to enforce the law it would be necessary to encourage snoopers to inform on people they knew were using it. Most people would think this, itself, was morally objectionable.

As the meetings proceeded, Mary came to see that her insistence on using the language of morality, the constant repetition of 'right' and 'wrong' to characterise procedures, was unhelpful. Indeed, it communicated a rather arrogant approach. Jenny Croft, the secretary to the committee, when she wrote minutes or drafts instead used the words 'appropriate' and 'inappropriate.' Initially Mary hated what she regarded as mealy-mouthed euphemisms, but she gradually realised that inevitably, when legislation was called for, some people would disagree. Such people would be offended if they were told they were morally wrong. It would be easier for them to accept the proposed legislation if they were encouraged to see their views as 'inappropriate' rather than wrong.³⁸ Elsewhere she pointed to a further complication in evaluating moral choices. She quoted Stuart Hampshire when he pointed out that 'conflict is an inevitable element in morality. We cannot hope to eliminate it.'³⁹ 'But, given time, consensus may develop out of the apparently beneficial operation of a law.'⁴⁰

The committee's call for evidence elicited a large number of responses (400 in all), mostly from organisations and a few from individuals. Alphabetically these ranged from Action for Lesbian Parents to the Yorkshire Pro-Life Coordinating Committee.⁴¹ All the

relevant medical Royal Colleges responded, as did a large number of churches of all denominations and sizes. As Mary wrote, such evidence was 'extraordinarily repetitive' and it was 'hard not to fall asleep over the papers.'⁴² It is certainly true that a great deal more effort goes into the preparation of such submissions than the committee to which they are submitted can possibly devote to reading them. It is also unfortunately true that most organisations, being bound to represent the views of their members, become 'single-issue' lobbyists. Such lobbying is often balanced out by opposing lobbies and it is difficult to search out anything genuinely original.

The oral evidence the committee took was more helpful as it could be tested in discussion. This was particularly the case with specialist medical evidence and with evidence from religious leaders. Occasionally there was a farcical element in the way the witnesses presented themselves. Jeremy Metters described how, when evidence was taken in Belfast, representatives of the four major churches (Church of Ireland, Catholic, Presbyterian and Methodist) insisted on entering by four different doors. After giving, in each other's hearing, virtually identical evidence, they then left using the same doors by which they had entered.⁴³ Some of the members of the committee canvassed opinion on the issues in question on their own account. For example, David Davies, who lived in North Devon, stimulated local discussion at meetings of Women's Institutes, Mothers' Unions and political meetings. He talked to youngsters on youth opportunities programmes about what they thought about the main issues.⁴⁴ Others may have done the same.

The first issue on which the committee heard evidence was the significance of childlessness and thus the priority which should be given to childless couples.⁴⁵ There were those who argued that the world was already over-populated. This was countered by the more persuasive view that the numbers of children born as a result of medical assistance would always be very small and that childlessness should be seen not as part of a population problem but as a question of individual need. Should such assistance be limited to couples it was thought would make 'good' parents? There was obviously no selection by marital status or by potential for good parenting among those who had children by sexual intercourse though there was considerable selectivity in the approval procedures for adopters. In the end the committee decided it would

not lay down any criteria for choosing who should benefit from such medical assistance as was available. It was merely recommended that consultants who declined treatment should provide a full explanation of the reasons. To the anger of some, this opened the door for single women as well as lesbian and gay couples to seek medical help. In the light of the 1967 Criminal Offences Act decriminalising homosexuality, this was, however, a logical decision.⁴⁶ Mary later expanded her views on the issue of the right of childless women, including lesbian women, to be helped to have babies in a book, *Making Babies* (2002), to be discussed later.⁴⁷

Despite the fact that AID was already widely practiced in infertility clinics up and down the country, a significant amount of evidence reflected strong hostility to the use of the technique. A few saw it as a threat to the integrity of the family, tantamount even to adultery. The status of the child born by AID was regarded as inevitably ambiguous. The committee recommended that children born by AID should be treated in every way as legitimate offspring with the sperm donor having no legitimate rights over the child.⁴⁸ Further, the law should allow the husband of the couple to be registered as the father. The committee articulated a number of additional rules which, it felt, should govern the practice of AID. At the time, it was widely agreed that sperm donors should have the right to anonymity throughout their lives and throughout the lives of any progeny. This was considered appropriate given the possibility of later paternity claims and the fact that the donors were largely acting from altruistic motives. The committee generally agreed with this practice but felt that there should be a limit to the number of children a donor should be permitted to father (a figure of ten was agreed),⁴⁹ and that, at the age of eighteen, the child born by AID should have access to information about the donor's ethnicity and genetic health.⁵⁰ This recommendation was translated into law. However, over twenty years later, in 2005, after some public pressure, the law was changed so that, at the age of eighteen, to align with the legislation on adoption, those born by sperm donation could find out full details of their biological fathers and contact them if they so wished. Predictably, since this law was passed, it has become increasingly difficult to obtain sperm by donation.

Some members felt that there should be compulsory counselling for all those receiving treatment by AID. In particular, the two social workers, Madeleine Carriline and Jean Walker, the wife of the Bishop of Ely, were determined that counselling should be obligatory. Mary discovered that counselling meant different things to different people. One gynaecologist who gave evidence described how, if a couple wanted treatment and he felt they were unsuitable, he would counsel them and counsel them until they changed their minds. Clearly for him, counselling was a form of persuasion. Others thought that counselling merely involved giving information in a neutral fashion. For the two social workers, however, counselling had a therapeutic function arising from the exploration of the couple's feelings. Mary was sceptical about the benefits of this. One suspects she would not have wanted to have her own feelings explored by someone she hardly knew. At one point, Jean Walker, whom Mary in any case found rather unlikeable, said to her 'I'm sorry you have this problem about counselling.'⁵¹ Mary was unimpressed with the idea she had a 'problem,' rather than possibly well-founded scepticism. In the end, the committee recommended that counselling should always be available to couples seeking treatment for infertility but that it should not be compulsory.

When the committee turned its attention to IVF, it met with many of the same kinds of objection. As with AID, there were those who objected to the procedure largely on religious grounds, with the belief that children should only be born as a result of sexual intercourse. Others, on a more managerial level, were concerned that the technique involved the production of many, so-called spare embryos. It was wrong, in principle, that embryos should be produced with the potential for human life that would never be fulfilled. This was a controversial area. The committee's considered view, expressed in Paragraph 11.9 of the report, was that although human embryos in the early stage of development are alive, they are not yet human persons.⁵² On this basis, it recommended unanimously that IVF should be allowed to continue, subject to the licensing of clinics carrying it out and to regulation. The committee received similar objections but made similar recommendations for both egg and embryo donations. IVF should be available within the NHS, an important point as NHS services were patchy and many couples,

then as now, had to resort to expensive private treatment or forgo such treatment altogether if they could not afford it.

The issue of surrogacy turned out to be the most contentious of all. Surrogacy takes many forms, but the common feature is that a woman agrees to carry a pregnancy for another couple, handing the baby over when or very shortly after it is born. An egg fertilised in a test-tube, derived from the egg of the wife and the sperm of the husband may be implanted into the surrogate's womb. Alternatively, the husband's sperm may be introduced into the surrogate's womb at the time she is ovulating to give the sperm the most likely chance of achieving fertilisation. The need for the procedure arises when a wife cannot, for some anatomical or physiological reason, sustain a pregnancy herself. Surrogacy had been practised commercially in the United States for a few years at the time the committee was sitting and there were proposals for similar commercial developments in the UK.

According to David Davies the issue was introduced to the committee when Mary

came into a committee meeting one day flourishing a Sunday newspaper [...] which had got, Mums for Sale, something like that. And she said, 'We can't have this, can we?' And it was about women having children for other women. And the committee on the whole said, yes Mrs Warnock, we agree, we should do everything possible to discourage it, you know, short of making it a criminal offence.⁵³

Mary later described endless arguments on this subject which she felt were largely her fault. While on some topics she felt she had been too intellectual or philosophising, on this one she felt she was too emotional. She wrote 'I was so far from being able to imagine handing over a baby to whom I had given birth, so keenly able to remember the bliss of seeing this new life, that I immediately felt it to be morally outrageous that anyone should contract before the pregnancy began that she would hand over the baby.'⁵⁴ She was also offended by the sort of language with which people involved were referred to 'agents' or 'surrogates.' She was upset by hearing about women who spoke of becoming a surrogate so that they could 'buy a new carpet for the sitting room.'⁵⁵ This was one of the few occasions when Mary's gender clearly affected her contribution to a debate.

In the end, after protracted discussion, the committee followed the majority view that the commercial exploitation of surrogacy should be banned but its practice should not.⁵⁶ Professionals who assisted in facilitating surrogate pregnancies should be liable to criminal prosecution and any contracts involving agreements over surrogacy births should be regarded as illegal and unenforceable in law.⁵⁷ These were not unanimous recommendations. David Davies and Wendy Greengross (a general practitioner and an agony aunt) signed a minority report opposing criminalisation and taking a much more relaxed view of the procedure.⁵⁸ Some months after the publication of the report, Mary began to feel this minority was in the right and blamed herself for bulldozing the majority into holding her view. The view that surrogacy should be permitted has subsequently prevailed in the UK (though not in many other countries), and arrangements for licensing and regulation have gone reasonably well, though it is now felt that further regulatory reform is needed.⁵⁹

Apart from surrogacy, the other major point of disagreement among committee members was the issue of research on embryos. As we have seen, the failure rate of IVF was substantial, and the overwhelming medical view was that the procedure needed to be the subject of more scientific research. It inevitably produced a large number of embryos that were surplus to requirement. Could these be used for such research? Most medical authorities thought they could, but most religious organisations and individuals, particularly the Catholic Church and the Chief Rabbi, deemed such research to be morally wrong. John Marshall was a strong advocate of this view, an inconsistent position for he was not opposed, as some Catholics were, to the fertilisation of an embryo in the laboratory for clinical purposes.⁶⁰

The groundwork in enhancing the committee's understanding in the issues of embryo research and reaching a conclusion on the matter was achieved when Anne McLaren described the early development of the embryo. A crucial meeting of the committee was held on 9 November 1983 when members started to discuss the maturity of the embryo beyond which research should not be permitted. Anne McLaren's paper titled 'Where to draw the line' pointed to the fact that it was at fourteen days that the so-called primitive streak appeared. This consisted of the cells from which eventually the central nervous system would develop.

She argued that until this primitive streak appeared it was inconceivable that the embryo could experience any form of pain or suffering. The committee agreed that the maturity of the embryo should be decided on the number of days after fertilisation rather than on the state of development of the embryo, which was seen to be a more arguable and therefore less satisfactory criterion. Research, they decided, should therefore be permitted up to fourteen days of the life of the embryo but not beyond that point.⁶¹

Even though the fourteen-day rule seemed eminently logical, it was anathema to the Catholic members who held that pre-fourteen-day embryos were potentially human beings and therefore should not be used for research without their consent which, of course, they could not give. In contrast, some geneticists, such as David Galton, pointed out that fourteen days was an arbitrary cut-off point and it was ridiculous to criminalise scientists who carried out research on, say, sixteen-day-embryos.⁶² Mary argued arbitrary cut-off points were inevitably set in much legislation. The 30 mph speed limit in built-up areas is arbitrary; it might be set at 20 or 40 mph as indeed it is in some areas. But 30 mph is widely accepted as an appropriate speed limit in most cities and social consensus was the crucial criterion. It was this issue that persuaded Mary that the language of social appropriateness was more persuasive than the language of morality, with its perhaps high-handed insistence on what was right and what was wrong. Whether or not the fourteen-day rule was arbitrary, the ethical question to be decided was whether such early-stage, pre-fourteen-day embryos are entitled to the same moral concerns as a more mature foetus, or even, as some members claimed, a mature adult. Mary's view, shared by the majority of the committee, was that Anne McLaren had demonstrated that such early-stage embryos could not have rights and that the practical long-term benefits of research in any case outweighed any remaining doubts. In the event, the committee's report reflected the majority view, arrived at finally at its December 1983 meeting, that, with the consent of the couple involved, embryos could be used for research up to fourteen days after fertilisation but that it should be a criminal offence to carry out research on embryos at a more advanced stage of development. A minority report, signed by John Marshall and the two social workers, stated that as the human status of the embryo could not be satisfactorily

determined at any point in its existence, experimentation on it should never be permitted.⁶³

In resolving this issue, Mary's approach was typical of how she tackled other problems. First, she considered relevant evidence. At the risk of repetition, this can be summarised as follows: IVF was only successful in a limited number of cases. To benefit more women, there had to be research on embryos. Anne McLaren had shown that it was inconceivable that embryos of less than fourteen days' gestation could experience pain or other suffering. Then there was the moral question to be considered: was research on these early embryos morally wrong? Did such embryos have the same right to moral concern as more mature foetuses and human beings. The committee concluded that they did not. So, regulated research on less than fourteen-day-old embryos was morally justifiable. The next question was whether there should be a law to criminalise experiments on more mature embryos. Mary's view was that experimentation on post-fourteen-day embryos was morally wrong and that a law forbidding it would have no harmful consequences. On this basis she decided and her committee (with the exception of the three dissidents) agreed with her that research on less than fourteen-day gestation embryos should, with regulation, be permitted and that research on more mature embryos should be criminalised.

The final set of recommendations made by the committee concerned the mechanism for regulation and monitoring of practice in this field. It recommended that a new independent statutory authority be created to regulate both research and infertility services. To avoid the possibility of this new regulatory body becoming dominated by particular interest groups, whether scientists or religious figures, its membership should contain a majority of lay members and the Chair should always be a lay person.⁶⁴ The aim was to ensure that in such a contentious area, the regulator should never stray too far from the views of the general public. Following the publication of the report, the establishment of the Human Fertilisation and Embryology Authority (HFEA), at first on a temporary basis, but soon made permanent, has been widely regarded as a conspicuous success. The HFEA is responsible for licensing all research using human gametes and preimplantation embryos and is generally regarded as providing helpful guidance to research workers and maintaining high standards of practice in infertility services.

The HFEA has, however, no power to ensure that fertility services are available under the NHS. The report had stated that it was important that 'there should be a sufficient level of NHS provision for childless couples not to feel that their only recourse is to the private sector.'⁶⁵ Sadly, this is still far from the case. Since the publication of the report, provision has been dominated by the private sector and is often out of reach of childless couples with limited means.

The last meetings of the committee were ill-tempered with disagreements over surrogacy and embryo experimentation coming to a head. Mary recorded details of a meeting in the Holiday Inn in Cardiff in March 1984. There was adequate hot water in the bedrooms and edible food, she noted, but no satisfactory meeting room so the last session was held in the hotel bar. Further, although the hotel had a photocopier, there was a problem with the production of drafts for discussion. No one in the so-called DHSS secretariat could type. Ken Rawnsley, the Cardiff professor of psychiatry, went to his office and came back with a typewriter so that Mary herself could type out the drafts. Mary reported it was 'the most disastrous meeting,'⁶⁶ though Jeremy Metters, who was partly responsible for its organisation, understandably did not have such a negative recollection of it.⁶⁷

In any event, the discussions led to the production of three minority reports. Wendy Greengross and David Davies produced a cogent argument against the criminalisation of surrogacy, with which Mary later came to agree. John Marshall and the two social workers dissented from the view that human embryos could be used for research purposes. Four members of the committee dissented from the view that embryos could be brought into existence solely for the purpose of carrying out research. If one adds John Marshall and the two social workers who took this view, this means that nearly half the committee disagreed with one or other of the recommendations.

The report was finally signed off with its three notes of dissension on an afternoon in July 1984. Mary only arrived in the nick of time for the occasion, having been entertained to a magnificent lunch given by Norman St. John Stevas.⁶⁸ Norman Fowler, the Secretary of State, to whom the report was personally presented, appeared pleased and asked to be briefed by Mary on its contents on a subsequent occasion. Mary records that after he had left 'we all shuffled off, probably glad to be rid of each other.'⁶⁹ This gloomy view of the relationships between the

members of the committee was not shared by others who had sat on it; they continued to view it as a largely pleasurable learning experience. Mary remained very much in contact at least with Anne McLaren, with whom she often shared a platform until Anne's death in a car accident in 2007.⁷⁰

While there certainly were differences of opinion among committee members reflected in the minority reports, the achievement of consensus owed everything to Mary. Throughout she had led the discussions and from the point of view of the members had been a most effective chair. The focus was always on the issues under discussion with Mary particularly keen to tap the expertise, especially that of Anne McLaren, available round the table. Her background as a moral philosopher, in the view of David Davies, proved invaluable when, as was often the case, conclusions relating to the right and wrong of behaviour were in question.⁷¹ Government reports of this nature are frequently drafted by civil servants with committee members making major or minor changes and approving the final version. This was not the case on this occasion. The civil servants did produce briefing drafts, but Mary took responsibility for most of the writing. Her characteristic style is present on every page. Others, such as David Davies, with his journalistic experience, took on some editing tasks, but it was Mary who drafted all the difficult sections.

The interim Human Fertilisation and Embryology Authority was set up very rapidly. Translation of the other main recommendations of the committee into law was a much more problematic and protracted affair than had been the case with the report on special education. To begin with, whereas the previous report had almost immediately enjoyed near universal support, many of the recommendations of this report proved controversial, some of them even highly objectionable. When its contents were debated in the House of Lords in October 1984, the large number of bishops who were members of the House condemned the report's acceptance of AID, though they were prepared to agree to AIH. They were horrified at the thought of experimentation on embryos at any time from the moment of fertilisation.⁷² Donald Soper, a progressive Methodist minister, was the only religious leader to speak in favour of the report. It was not just the bishops who were critical. Leading lawyers such as Lord Denning were equally scathing on the embryo

experimentation issue, as were many other peers.⁷³ Mary was not made a life peer until the following year, so she was not able to respond directly in the debate.

Following an outcry about commercial surrogacy, the Surrogacy Arrangements Act 1985 to regulate the procedure was rushed through Parliament. As a result of the controversies surrounding the area, it took several years before a bill implementing the other recommendations was put before Parliament. Meanwhile, Mary was much in demand as a speaker to discuss the issues in the report. She recalled an improbably uncomfortable stay in the luxurious Danieli Hotel in Venice where she lectured.⁷⁴ The bestowal of an honorary degree in Melbourne turned into a highly pleasurable two-month visit with Geoffrey to Australia in July and August 1986. Mary gave a series of lectures on bioethics and had the opportunity of discussions with Peter Singer, the philosopher with whom she had taken issue over animal rights.⁷⁵

It gradually became clear, partly as a result of the responses to a questionnaire in *Women's Own* that Mary helped to draft, that there was popular support for the report's recommendations as well as parliamentary enthusiasm.⁷⁶ The civil servants made slow progress, but a white paper was published for consultation in the autumn of 1987 and the bill was finally introduced in November 1989, five years after the publication of the report. On 7 December 1989 at the second reading of the Human Fertilisation and Embryology Bill in the House of Lords, it emerged that there had been a change of attitude among many peers to the recommendations made in the report. Although again most bishops spoke against experimental research on human embryos, even among churchmen there were those who were prepared to be much more favourable. Mary was particularly grateful that John Habgood, the Archbishop of York, who had trained as a biologist, introduced the idea that the gradual development of the human organism from gamete (sperm or egg) to embryo to foetus to baby, child and then adulthood, should result in a similar continuum of moral value being accorded as development proceeded.⁷⁷

Mary was by now a member of the House of Lords herself and could contribute to the debate. She confined her remarks to research issues. Ignorant at one point she might have been, but she was now as well informed as any geneticist about the issues involved. Research on human

embryos, she noted, had already been going on for twenty years and had brought great benefits to society. The chromosomal basis of Down's syndrome had been established. The carriers of some dreadful genetic diseases who were concerned they would pass on their conditions could now be assured that embryos implanted by IVF did not carry the genes that were responsible. In addition, of course, it was now possible for a small number of childless couples to have biological children of their own by in vitro fertilisation.⁷⁸

There had already been some attempt to introduce into the debate about the report discussion aimed at changing the age at which abortions or terminations of pregnancy could legally be carried out. Mary pointed out that the question of research on embryos had nothing to do with abortion. She quoted a prayer used in her college chapel to the effect that 'we may be given the grace to distinguish things that differ.'⁷⁹ We must learn to think differently, she said, of the pre-embryo compared to the embryo and of the pre-fourteen-day embryo compared to one at a later stage of development. A number of peers had expressed concern that the fourteen-day limit was only the beginning of a 'slippery slope, that, before too long would result in experiments being carried out on embryos at a later stage of development.' Mary dismissed this argument by reminding the House that the establishment of the HFEA would ensure that no such changes could occur without very careful consideration.⁸⁰ Indeed, no major changes have occurred in the over thirty years since the HFEA was established.

Again, although the bishops remained largely intransigent, there was widespread support from other quarters for all the provisions of the bill. Mary emphasised the importance of the full consent of all those involved in any procedures, AID, in vitro fertilisation or surrogacy. She reiterated the distinction between issues relating to abortion and those of research on embryos and the importance of continuing to resist the attempts to introduce irrelevant matters into the bill. The existence of a regulatory body meant that there was no need for the fear expressed by many fellow peers that the fourteen-day limit would be the thin edge of the wedge in relation to experimentation on more mature foetuses, babies, children or adults. She made the powerful point that to reject this provision of the bill would be tantamount to going back to the seventeenth century when, as had been the case with Galileo, what was

permissible in scientific work was decided by the Church and not by scientists. When an aged fellow peer opined that no Christian could possibly support the bill, Mary cited the Archbishop of York. 'Ah,' said the peer, '*He's not a Christian.*'⁸¹

After many hours of debate the whole bill was passed in the Lords, but then the House of Commons created difficulties. It introduced amendments relating to abortion. The Lord Chancellor warned that if these amendments were allowed, the whole bill risked defeat. Fortunately, in the end, despite serious uncertainty over whether time could be found to reach a decision, the bill was passed and became law.⁸² As for the fears of those who saw the fourteen-day limit as the thin end of the wedge, it is notable that there have been no substantive changes to the regulations since the HFEA was established more than thirty years ago.

Following the 1990 Act, advances in medical and scientific knowledge would regularly give rise to new ethical issues and the demands for Mary to contribute to discussion continued unabated. She frequently spoke in debates about proposed legislation, wrote articles and other books and participated in radio and television discussions. Shortly after the report was published it became clear that it would be possible to carry out manipulation on individual genes or parts of genes with the aim of removing faulty ones and replacing them with healthy ones. In 1991, regulations were passed making it possible to carry out research along these lines using somatic but not germ cells (the latter being cells that develop into sperm or eggs). A major advance took place in 1997 when a sheep was cloned by cell nuclear replacement. This opened up the possibility of creating cloned humans. Not long afterwards, in 2001, an Italian gynaecologist, Severino Antinori, whom Mary described as 'notoriously excitable,' though it does not seem that she ever met him, announced his intention of coming to England to produce a cloned baby. This idea was greeted with alarm by the pro-life lobby and generated sensational press interest, leading the government to take emergency action. The 2001 Human Cloning Bill proposed outlawing cloning in humans. Although Mary broadly supported the bill, she was more relaxed than many others about human cloning, pointing out that identical twins were clones of each other and were not noticeably disadvantaged in any way. She also thought that the government had

been panicked into introducing the bill unnecessarily, as the matter could have been dealt with quite easily under existing legislation, presumably by the HFEA.⁸³

Another source of public alarm were new developments in stem cell research. There was no doubt that this work had considerable therapeutic potential, but the research was pushing the boundaries of the law. In a House of Lords debate on the proposed new regulations, Mary expressed her irritation that so much time had needlessly been spent on the wrong questions, especially on whether the embryo was a 'person.' She said:

There is no sense in saying such things as, 'The embryo may possibly be a person', or, 'The embryo is probably, or probably not, a person'. Neither probability nor discovery comes into the question at all. It is a matter of decision—and Parliament did decide in 1990 that the early embryo did not have the right to the protection that presumably belongs to persons.

She regretted that the 1984 Report had used words such as 'respect for the embryo.' That, she said in her usual forthright fashion, 'seems to me to lead to certain absurdities. You cannot respectfully pour something down the sink—which is the fate of the embryo after it has been used for research, or if it is not going to be used for research or for anything else.'⁸⁴

In 2007, it became clear that the 1990 Act needed amendment in the light of recent genetic advances. A bill was introduced to make minor amendments to the earlier act. The new act established that all research on human embryos created outside the body, whatever the process that went into their creation, should be subject to regulation. 'Human admixed embryos,' in which there were contributions from non-human species, should also be subject to regulation. It retained the duty on infertility clinics to ensure that children born by assisted reproduction had their parental needs met but replaced the original wording which had insisted on the 'need for a father' with the 'need for supportive parenting.' The bill recognised both members of a same-sex couple who had children as legitimate parents. Mary, now eighty-three years old, spoke in favour of keeping the Human Fertilisation and Embryology Authority which, not for the first or last time, was under threat by a government seeking economies. She continued to advocate for utilitarianism (weighing benefits and harms) as a guiding principle in making decisions on clinical practice and research. Once again, in

this debate, the pro-life group tried to introduce amendments relating to abortion, and Mary deplored such confusing interventions.⁸⁵

Meanwhile other issues in genetics were beginning to arise. The huge project to map the entire human genome was giving rise to ever-growing commercial opportunities, and the question of the ownership of genetic material was demanding urgent answers. Was it the individual from whom a sample had been taken, the scientist who had obtained it or the commercial firm owning the laboratory in which the process had been undertaken? In December 1998, Mary was contacted by a scientist at the University of Reykjavik to ask if she would come over immediately to give a view on the setting up of a privately owned genetic data bank. An Icelandic geneticist, Kari Stefansson, had established a company, deCode, to hold and crucially to own a huge bank of genetic samples from Icelanders. The practical effect would be to deny access to this research material by the wider scientific community, thereby creating a monopoly for deCode.⁸⁶

Mary agreed this would be thoroughly undesirable and prepared her remarks accordingly. While she was delivering her paper, she noticed in the back of the room a man whom she immediately identified as Kari Stefansson. He was 'one of the most enormous men I had ever seen, [...] with piercing blue eyes and fair hair.'⁸⁷ It was impossible not to see him, she wrote, except 'in a Viking's helmet, striding the Wagnerian stage.' Unintimidated, she gave her paper, highly critical of commercialisation with its inevitable constraints on the availability of genetic material to those who did not own it. Stefansson strode out at the end, obviously angry, though she was congratulated by the rest of the scientific audience. Unfortunately, the Icelandic Parliament had passed a bill agreeing to deCode's proposals that very morning, so her speech was to no avail.⁸⁸ Subsequently, it has to be added, deCode has achieved significant success in advancing knowledge as well as making a significant commercial profit. In 2017, Kari Stefansson was awarded top prize of the American Society for Human Genetics for his far-reaching scientific contributions.⁸⁹

During the late 1990s and early 2000s, Mary spent some time reflecting on philosophical questions arising during her work in this field. She brought together her thoughts in *Making Babies*, published in 2002.⁹⁰ The central question she tried to answer was whether people had a right to

have children. Why did she write this book? During the enquiry, she had met infertile women who had, she felt, been badly treated by the doctors they had consulted. It is clear from the account she gives of the evidence given by gynaecologists to the committee that she found a number of them arrogant and patronising towards their patients. Certainly, this was how she felt particularly about Dame Josephine Barnes, the doyenne of gynaecologists who was a member of her committee. All the same, when the doctors described the reasons for their negative attitudes towards some of the women who came to them for treatment of infertility, she felt they had a point. There were, for example, women already living at the limit of their meagre financial or emotional resources or those who thought having a child would save their marriages. Some cases raised extraordinarily complex issues. Early on in her book she discusses the case of Diane Blood from whose husband samples of semen were taken while he was in a coma and certain to die.⁹¹ In 1997, the HFEA refused permission for a UK gynaecologist to assist her to have a child using this semen, on the grounds that a posthumous child was bound to suffer psychological trauma. Mary pointed out that the fact that her own father had died before her birth had not meant she suffered such trauma.⁹² In the end, Diane Blood found more sympathetic medical care in Belgium where she had two sons who have developed well.

Did infertile women have a right to professional assistance to have a baby regardless of their circumstances or motivation? Did Diane Blood have a right to be fertilised using her late husband's sperm? Mary had always hitherto rejected what she saw as the careless use of language of rights in answer to general questions such as 'does a woman have right to a child.' Her view was that people only have such rights as are conferred by law, and she was suspicious of any talk of 'natural rights.' Nevertheless, her own 'blissfully happy' experiences of giving birth to five babies made her greatly sympathetic to women denied this opportunity for reasons that were no fault of their own. She discusses the changes in the concept of rights and their relationship to the law over the previous half-century. Until the 1960s, she writes, the Benthamite view had prevailed that rights could only exist when conferred by law. More recently, it had become widely held that human rights were the rights of all human beings by virtue of their humanity, regardless of the law, which, if necessary, must be changed to accommodate them. But

who was to say what these universal rights were? Rights, she wrote, must be conferred by a higher authority and if this is not the law, who or what is it? There was currently no law that gave women the right to conceive. Mary thought that it was important to keep the language of principle and morality separate from the language of law, but, from 2001, this distinction had been removed in the United Kingdom by the passage of the Human Rights Act which incorporated into UK law the provisions of the European Convention on Human Rights.⁹³

Mary then considered the possibility that human rights might perhaps be seen as derived from need. This was certainly the principle behind the policies of the 1945 Attlee Government when it set up the NHS and enacted welfare policies. It could therefore be conceded that people do have a right to certain basic needs, like food, water and shelter, but is the need to have children such a basic need? Clearly people do not need to have children in the same sense that they need water. Although it might be argued that women who cannot have children without assistance have a right to that assistance, it might be that doctors were within *their* rights to refuse treatment if this seemed an appropriate course of action to them? Mary felt this could be a reasonable position for doctors to take, but, if they did, they had a duty to explain their reasons. For example, even though it might be eminently reasonable to refuse infertility treatment to parents with a history of child abuse, the doctor would still need to explain and offer to refer for another opinion.⁹⁴ To support her view, she describes the case of a single woman aged sixty years who wanted to have IVF using her brother's semen. Mary clearly thought that any doctor who acceded to such a request would not be acting in the interests of the unborn child and would therefore be entitled to refuse help.⁹⁵ She thought cases like these should be decided on their own merits, not on rigidly applied rules. The paramount consideration should be the good of the child.

She goes on to dismiss the idea that any form of assisted conception should be forbidden by law because it is unnatural or against the laws of nature. Here she draws for support on Hume's *Treatise on Human Nature* (1739) in which he affirms that everything that happens must be natural unless it is the effect of a miracle. Having rejected the idea that infertility treatment is unnatural, she goes on to ask whether all such treatment methods should be regarded as legitimate.⁹⁶ She expresses doubts about

both surrogacy and cloning. Her doubts about surrogacy have by now been reduced to concern about the idea that people should make money out of it. She considers that existing UK law on surrogacy at the time she was writing was ambiguous in relation to profit-making. Expenses were allowed, but these could amount to what was, in effect, an income. She thought it would be better if the process of surrogacy was more tightly regulated.⁹⁷ In fact, at the time of writing in 2020, the Law Commission has suggested that, though surrogacy is legal and indeed often carried out with great professionalism in the UK, reform is long overdue to bring greater certainty to parents and the surrogate mother. For Mary, there were more concerns about cloning. Increasingly, she notes, there seemed to be a wish for parents to create ‘designer babies’ with perfect appearance and brains. But babies are not fashion accessories or possessions. They rapidly develop characteristics of their own. It takes time and experience for parents to realise that they have very limited power over the way their children develop, a view perhaps derived from her understanding of her own children’s development. She affirms: ‘To allow parents to insist that their babies must be of a certain kind would be a disaster.’⁹⁸

Mary concludes her discussion of rights by suggesting that, rather than thinking in terms of a right for the infertile to be given assistance to conceive by the medical profession, it would be preferable to consider the matter in terms of ‘the doctor’s professional duty, which is a duty of compassion to his patients, making it obligatory for him to seek as far as he can to alleviate suffering.’ She does not think this constitutes a right to have such help. If this were the case, the patient would become a client and the doctor her servant. It would make the doctor like a hairdresser who has to do what his or her customer wants.⁹⁹ To suggest there is a fundamental contrast here seems problematic to me. Surely the best sort of interaction between doctors and their patients as well as between hairdressers and their clients is based on discussion. In the end, a hairdresser, exactly like a doctor, can refuse to accede to a client’s request, for example, for a bizarre cut or an outlandish dye. In any event, it is clear that Mary would deplore a situation in which a doctor had a contractual duty to carry out a procedure demanded by the patient. We must, she says, beware of the danger of confusing what is deeply and passionately wanted with a right. Further, she thought it would

be disappointing if people felt so strongly about their rights that they missed out on the 'astonishment and gratitude' that came with the birth of a child. 'Gratitude is something you do not feel when all you have is what is owed.'¹⁰⁰

Making Babies was Mary's last contribution to the literature on infertility. Her influence on the field of genetic research and its regulation has, however, endured to the end of the second decade of the twenty-first century and will doubtless continue for years to come. The Human Fertilisation and Embryology Authority, established on the basis of her report, continues to function effectively. It licenses, monitors and inspects fertility clinics, provides information about fertility treatment, clinics and sperm and embryo donation. It collects data about fertility treatments in such a way that people conceived with a donor can learn more about their genetic origins. It also monitors research centres to ensure they comply with the various legal requirements laid down by law. In October 2019, Ewan Burney, a leading British geneticist, described it as 'a model, one of the best in the world, to decide what should be allowable and what not.'¹⁰¹ Occasionally, as in 2011, there have been attempts by government to shut it down or merge it with other bodies, but these have been strongly and successfully resisted. The positive impact of the Warnock Committee on clinical practice and embryo research is difficult to exaggerate.

In 2003, twenty years after its report was published, Suzi Leather, the Chair of the HFEA, wrote of Mary Warnock:

Rarely can an individual have had so much influence on public policy. The committee she chaired clearly appreciated the fundamental moral and often religious questions raised by assisted reproductive technology, and yet it produced a coherent set of proposals for their regulation that has stood the test of time. The fact is that almost 20 years later we are still working to the rules suggested by Warnock.¹⁰²

Another sixteen years later, Professor Susan Golombok, Director of the Centre for Family Research in the University of Cambridge, the leading researcher worldwide in the study of children born by AID and surrogacy puts it this way:

The ground-breaking work of the Warnock Committee set the scene for the HFEA, and a UK regulatory system for assisted reproduction that is the envy of the world. Many of the issues considered in the report,

such as the psychological impact on children of the absence of a genetic connection to a parent, were prescient at the time and relevant to this day. Although the Warnock Report came out against surrogacy, in 2003, Mary Warnock acknowledged that she had been too hostile towards surrogacy, and that the test of time had produced a change of mind. Mary Warnock's far-sighted perspective on assisted reproduction has left a legacy of an ethical and compassionate approach to new developments in the field.¹⁰³

Interviewed for her obituary in *BioNews* in March 2019, Prof. Robin Lovell-Badge, the head of stem cell biology and developmental genetics at the Francis Crick Institute in London, wrote:

It was her foresight that led to robust but flexible regulations that deal with a sensitive area, and which are often the envy of other countries. She was always determined that 'ignorance and prejudice should not be allowed to dictate the outcome' of legislation. We will greatly miss her clear and level-headed thinking, her wisdom and common sense, and her unfailing support.¹⁰⁴

Alison Murdoch, Professor of Reproductive Medicine, Newcastle University, considers that the Warnock Report made three highly significant recommendations that have stood the test of time: it affirmed that IVF should be permitted and that the providers and recipients of treatment should be protected by law; that the legitimacy of children born by AID and IVF should be recognised; and that research should be permitted with embryos of fourteen-day maturity or less. Without these recommendations, such vital principles might never have been agreed.¹⁰⁵ Prof. Sarah Franklin, Chair and Head of the Cambridge Sociology Department's Reproductive Sociology Research Group, sees Mary as a pioneer in that she was 'a public intellectual who was able to integrate a profound understanding of ethics and philosophy into a sociological perspective on public policy development, a feat never before achieved.'¹⁰⁶

Notes

- 1 Mary Warnock, 2003, p. 73.
- 2 Ibid.
- 3 Edwards and Sharpe, 1971.
- 4 Mary Warnock, 2003, p. 73.
- 5 A. McLaren, 1973, p. 4.

- 6 G. Dunstan, 1973, p. 51.
- 7 Her Majesty's Stationery Office, 1960.
- 8 British Medical Association, 1973.
- 9 R. G. Edwards and A. Steptoe, 1973, pp. 11–18.
- 10 O. Stone, 1973, pp. 69–76.
- 11 Graham, p. 65.
- 12 Dunstan, p. 50.
- 13 Himmelweit, p. 102.
- 14 Kilbrandon, p. 103.
- 15 Mary Warnock, 2003, p. 74.
- 16 Mary Warnock, 1985, p. 4.
- 17 Mary Warnock, 2003, p. 71.
- 18 *Ibid.*, p. 76.
- 19 *Ibid.*
- 20 Mary Warnock, 1985, p. iv.
- 21 Mary Warnock, 2003, pp. 76–77.
- 22 *Ibid.*
- 23 *Ibid.*, p. 80.
- 24 *Ibid.*, pp. 81–82.
- 25 *Ibid.*, p. 83.
- 26 David Davies, British Library, Oral history sound archive, C1379/60.
- 27 Jeremy Metters, personal communication.
- 28 *Ibid.*
- 29 George Hill, 1985.
- 30 Mary Warnock, 2003, p. 88.
- 31 Mary Warnock, 1985, p. xi.
- 32 Mary Warnock, 1992, pp. 84–101.
- 33 Mary Warnock, 1985, p. 95.
- 34 *Ibid.*, p. ix.
- 35 *Ibid.*, p. viii.

- 36 Ibid., p. x.
- 37 Ibid., p. xi.
- 38 Warnock, 2003, pp. 98–99.
- 39 Warnock, 1992, p. 95.
- 40 Ibid, p. 101.
- 41 Warnock, 1985, pp. 101–105.
- 42 Warnock, 2003, p. 87.
- 43 Jeremy Metters, personal communication.
- 44 David Davies, British Library, Oral history sound archive, C1379/60.
- 45 What follows is a highly simplified version of the process whereby the committee arrived at its conclusions and, in particular, the fourteen-day rule. For a detailed description based on the original documentation, see S. Franklin, 2019.
- 46 Warnock, 1985a, p. 12.
- 47 Warnock, 2002.
- 48 Warnock, 1985a, pp. 23–24.
- 49 Ibid., p. 27.
- 50 Ibid., pp. 24–25.
- 51 Warnock, 2003, p. 105.
- 52 Warnock, 2003, p. 91.
- 53 David Davies, British Library, Oral history sound archive, C1379/60.
- 54 Warnock, 2003, p. 103.
- 55 Ibid.
- 56 Warnock, 1985a, p. 47.
- 57 Ibid.
- 58 Ibid., pp. 87–89.
- 59 Latham, 2020.
- 60 Warnock, 2003, pp. 92–97.
- 61 Ibid., pp. 94–95.
- 62 Ibid., p. 97.
- 63 Warnock, 1985a, pp. 90–93.

- 64 Ibid., pp. 75–76.
- 65 Ibid., p. 33, 5.11.
- 66 Warnock, 2003, p. 107.
- 67 Jeremy Metters, personal communication.
- 68 Warnock, 2003, p. 109.
- 69 Ibid., p. 110.
- 70 Ibid., p. 113.
- 71 David Davies, personal communication.
- 72 Hansard, House of Lords debate, 31 October 1984, Vol. 456.
- 73 Ibid
- 74 Warnock, 2003, p. 114.
- 75 Ibid., p. 115.
- 76 Ibid., pp. 113–114.
- 77 Hansard, House of Lords debate, 2 December 1989, Vol. 513.
- 78 Ibid.
- 79 Ibid.
- 80 Ibid.
- 81 Warnock, 2003, p. 120.
- 82 Ibid., p. 125.
- 83 Hansard, Human Reproductive Cloning Bill, 26 November 2001, Vol. 629.
- 84 Hansard, Stem Cell Research, House of Lords debate, 5 December 2002.
- 85 Hansard, Human Fertilisation and Embryology Bill, House of Lords, 19 November 2007.
- 86 Warnock, 2003, p. 143.
- 87 Ibid., p. 146.
- 88 Ibid., p. 147.
- 89 Mark Daly, 2018.
- 90 Warnock, 2002.
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- 92 Ibid.

- 93 Ibid., pp. 17–26.
- 94 Ibid., p. 45.
- 95 Ibid., pp. 47–48.
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- 101 Ewan Burney, Radio 4, *Eugenics: Science's Greatest Scandal*, 6 October 2019.
- 102 Human Fertilisation and Embryology Authority Report, 2003/4.
- 103 Susan Golombok, personal communication.
- 104 Rachel Siden, 2019.
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- 106 Sarah Franklin, 2019.

9. What Are Universities For?

While the Committee on Human Fertilisation and Embryology was sitting between 1982 and 1984, the members who had university posts were living anxiously through a government onslaught on the finances of their academic institutions. In May 1979, Margaret Thatcher and a radically reforming Conservative government had been elected to power. The Prime Minister saw the universities, particularly Oxford and Cambridge, as anti-business, anti-merit, even, with their cosmopolitan leanings, anti-patriotic.¹ There were some academic subjects to which she was particularly antipathetic, sociology, which had mushroomed in the 1960s and 1970s being foremost among them. Mathematics and the sciences (she herself had studied Chemistry at Oxford) as well as vocational subjects such as law and medicine were more likely to be protected. As was nearly always the case over this period, the country was in an economic crisis. It did not take long for the axe to fall. In 1981, universities were told to expect an 18% cut to their finances over the next three years. They were given a month to decide how to implement the cuts.²

Mary's husband, Geoffrey, had been elected Oxford's Vice-Chancellor in 1981. Within a year of his appointment, he attended a meeting of Vice-Chancellors held in London which was addressed by the Prime Minister in uncompromising terms. She relentlessly attacked the universities for what she saw as their elitism and indifference to the economy (see Chapter One).³ He was astonished that the Prime Minister should assemble a room full of leading academics and university administrators and show no desire to listen to them; indeed they had not been allowed to say a word. He was in the forefront of those at Oxford who had to work out how to cope with a significant decline in funding. Before 1979, universities had been relatively favoured by the Treasury and had seen a gradual but significant expansion over the previous thirty years. Now