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In December 1990, the U.S. Food and Drug Administration (FDA) approved Norplant, the first subdermal implantable contraceptive device ever manufactured. Norplant consisted of six thin, silicone rubber rods that were surgically inserted under the skin of a woman's arm, slowly releasing hormones to prevent pregnancies for up to five years. Many people in the United States celebrated its approval, including some feminists and doctors. They believed new contraceptive research would afford women greater reproductive control and additional freedoms. But feminists in Bangladesh, Brazil, and Egypt had been claiming that the drug's testing trials were unethical, and that Norplant was unsafe. They warned U.S. activists about these dangers and within months, their predictions came to fruition. Judges, lawmakers, and community leaders pressured poor and minority women to use Norplant and many claimed they experienced terrible side effects from the drug. After U.S. women's health activists mobilized on patients' behalf, class action lawyers took notice and filed 200 lawsuits against Norplant's manufacturer on behalf of fifty thousand women. Just twelve years after its FDA approval, Norplant was removed from the American market. This dissertation investigates the many historical constructions that defined Norplant from its development in the 1960s to its downfall.

THE POLITICS OF NORPLANT: FEMINISM, CIVIL RIGHTS, AND
SOCIAL POLICY IN THE 1990S

by

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APPROVAL PAGE

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I Love Lucy, he recounted baseball history from memory, including oddly specific stats, and my dad told me about his youth growing up in an Italian neighborhood in Pennsylvania's coal country. On the other hand, my mom, Christina Licata, supplied me with a plethora of books that examined the past, fostering my curiosity in history. Further, she challenged me to understand that the past is often reprehensible. She also taught my sister and me to be determined feminists and to never back down from a challenge. I wanted to thank my mom for spending thousands of hours speaking with me over the phone about this dissertation and taking a true interest in my work. I love you, Mom, Dad, and Lana!

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TABLE OF CONTENTS

| | Page |
|---|------|
| ABBREVIATIONS IN NOTES | xi |
| CHAPTER | |
| I. INTRODUCTION | 1 |
| II. THE GLOBAL ORIGINS OF THE FEMINIST CAMPAIGN AGAINST NORPLANT | 17 |
| III. NORPLANT AND SOCIAL POLICY IN THE 1990s | 54 |
| IV. THE U.S. WOMEN’S HEALTH MOVEMENT AGAINST NORPLANT..... | 94 |
| V. THE LITIGATION BOOM..... | 121 |
| VI. EPILOGUE: NORPLANT FORGOTTEN..... | 150 |
| BIBLIOGRAPHY..... | 156 |

ABBREVIATIONS IN NOTES

Archives and Libraries

| | |
|------|--|
| PUL | Princeton University Library, Princeton, New Jersey |
| RAC | Rockefeller Archive Center, Sleepy Hollow, New York |
| SBC | Sallie Bingham Center for Women's History and Culture, Rubenstein Rare Book & Manuscript Library, Duke University Archives, Durham, North Carolina |
| SSC | Sophia Smith Collection, Smith College, Northampton, Massachusetts |
| SL | Schlesinger Library, Radcliffe Institute, Harvard University, Cambridge, Massachusetts |
| VTNA | Vanderbilt Television News Archive, Vanderbilt University, Nashville, Tennessee |

Collections

| | |
|----------|---|
| ACLUR | American Civil Liberties Union Records |
| BHR | Bass and Howes, Inc. Records (1957-2002) |
| BWHBCAR | Boston Women's Health Book Collective Additional Records (1905-2008) |
| BWHIR | Black Women's Health Imperative's Records (Unprocessed) |
| CAR | Charon Asetoyer Records (1985-2008) |
| HMP | Hoffman, Merle Papers (1944-2012) |
| LJRP | Loretta J. Ross Papers (1956-2013) |
| NAWHERCR | Native Women's Health and Education Resource Center Records (1985-2011) |
| NWHNR | National Women's Health Network Records (1963-2011) |
| PCR | Population Council Records |
| RFR | Rockefeller Foundation Records |
| SSP | Sybil Shainwald Papers (1924-2012) |

CHAPTER I

INTRODUCTION

In December 1990, the U.S. Food and Drug Administration (FDA) approved Norplant, the first subdermal implantable contraceptive device ever manufactured. Norplant consisted of six thin, silicone rubber rods that were surgically inserted under the skin of a woman's arm, slowly releasing hormones to prevent pregnancies for up to five years. Many people in the United States celebrated its approval, including some feminists and doctors. They believed new contraceptive research would afford women greater reproductive control and additional freedoms. But feminists in Bangladesh, Brazil, and Egypt had been claiming that the drug's testing trials were unethical, and that Norplant was unsafe. They warned U.S. activists about these dangers and within months, their predictions came to fruition. Judges, lawmakers, and community leaders pressured poor and minority women to use Norplant and many claimed they experienced terrible side effects from the drug. After U.S. women's health activists mobilized on patients' behalf, class action lawyers took notice and filed 200 lawsuits against Norplant's manufacturer on behalf of fifty thousand women. Just twelve years after its FDA approval, Norplant was removed from the American market.

This dissertation investigates the many historical constructions that defined Norplant from its development in the 1960s to its demise in 2002. During the course of Norplant's existence, an array of people and institutions used the drug to push their

agendas and ideologies. Some policymakers and international non-governmental organizations saw it as a way to exert control over minority populations and prevent “overpopulation,” particularly in the Global South. Many feminists considered Norplant to be a harmful tool that could potentially be used to sterilize poor and minority women. Feminists used their critiques to advocate for greater control over their bodies. A group of class action lawyers saw Norplant as a way to earn a profit. Through my examinations of Norplant’s history, I demonstrate how the contraceptive implant’s meaning changed over time and often took on multiple meanings all at once.

In this dissertation, I consider any instance in which a woman was forced, pressured, or incentivized to use Norplant by a government authority or medical professional a form of coercion. There are many different forms of coercion and the coercive efforts examined in the following chapters range in severity from threats of violence to monetary incentives. While noting these different levels of coercion is essential, each incident demonstrates how state authorities and non-governmental institutions, such as the Population Council, sought in various ways to use Norplant to control women’s reproduction, particularly poor women living in the Global South and women of color and indigenous women in the U.S.¹

The first plans for Norplant emerged in the 1960s, when Dr. Sheldon J. Segal, an embryologist, worked with a team to invent the technology that made the implant possible. A long-time advocate of effective and affordable contraception, Segal

¹ Mark Haugaard and Howard H. Lentner ed., *Hegemony and Power: Consensus and Coercion in Contemporary Politics*, (Lanham: Lexington Books, 2006); Scott A. Anderson, “The Enforcement Approach to Coercion,” *Journal of Ethics and Social Philosophy* (2010).

considered Norplant the greatest advancement in contraception since the birth control pill, which was FDA approved in 1960. The Population Council, a New York-based non-governmental organization (NGO) with associates around the globe, financed the development and testing of Norplant. This organization promoted “population control” as the answer to reducing global poverty and focused on developing contraception for poor, uneducated women, especially in impoverished nations.²

Population control was a postwar expression of eugenics, a pseudo-science that encouraged the sterilization of individuals who society deemed “unfit” in order to improve humanity. In the late nineteenth and early twentieth centuries, scientists and politicians viewed eugenics as a legitimate science dedicated to improving the human race. Eugenicists argued that undesirable traits, like alcoholism and feeble-mindedness, could be passed down from parent to child, and they considered the sterilization of individuals marked “unfit” to be humane acts. Doctors deemed the medical procedure to be safe, simple, and nearly painless. The state and the medical community celebrated the doctors performing the surgical sterilizations for preventing the birth of individuals who would be “burdens” upon society.³ Assuming that eugenics was an accredited science,

² Dorothy Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty*. (New York: Pantheon Books: A Division of Random House, Inc., 1997), 139; Elizabeth Siegel Watkins, “From Breakthrough to Bust: The Brief Life of Norplant, the Contraceptive Implant,” *Journal of Women's History* 22:3 (2010); Linda Everett, “The Population Council: from eugenics to Norplant,” *Executive Intelligence Review* 20: 19 (May 14, 1993): 23, accessed on July 3, 2019, https://larouchepub.com/eiw/public/1993/eirv20n19-19930514/eirv20n19-19930514_023-the_population_council_from_euge.pdf; Laura J. Frost and Michael B. Reich. *Access: How do Good Health Technologies Get to Poor People in Poor Countries*, (Cambridge: The Harvard Center for Population and Development Studies, 2008).

³ Harry Bruinius, *Better for all the World: The Secret History of Forced Sterilization and America's Quest for Radical Purity*, (New York: Alfred A. Knopf, 2006), 4.

state-run eugenics boards justified thousands of sterilizations, the majority of which were aimed at minority women, including African American, Native, and Latinas. But the eugenicists' reputation was denigrated when Nazis used eugenics to warrant the atrocities they performed during the Holocaust. Following the war, society determined that eugenics was not a reputable science.⁴

Following World War II, scientists and political leaders no longer used the term “eugenics,” but the practice of forcibly sterilizing populations considered undesirable continued. Under the guise of population control and family planning, the U.S. government and international NGOs continued to sterilize susceptible communities. For instance, as late as the 1970s, some healthcare practitioners coercively and permanently sterilized poor women of color and indigenous women, often shortly after they gave birth. In some cases, doctors and nurses convinced patients to consent to the practice (and sign forms) in the midst of labor. Many non-English speaking patients were given informative pamphlets and counseling about sterilization only in English.⁵

⁴ Randall Hansen, and Desmond King, *Sterilized by the State: Eugenics, Race, and the Population Scare in Twentieth-Century North America*, (New York: Cambridge University Press, 2013); Wendy Kline, *Building a Better Race: Gender, Sexuality, and Eugenics from the Turn of the Century to the Baby Boom*, (Berkeley: University of California Press, 2001); Rebecca M. Kluchin, *Fit to be Tied: Sterilization and Reproductive Rights in America, 1950-1980*, (New Brunswick: Rutgers University Press, 2009); Nancy Ordover, *American Eugenics: Race, Queer Anatomy, and the Science of Nationalism*, (Minneapolis: University of Minnesota Press, 2003); Bruinius, *Better for all the World*, 2006); Joanna Schoen, *Choice and Coercion: Birth Control, Sterilization, and Abortion in Public Health and Welfare*, (Chapel Hill: UNC Press, 2005); Angela Franks, *Margaret Sanger's Eugenic Legacy: The Control of Female Fertility*, (Jefferson, NC: McFarland & Company, Inc., Publishers, 2005); Paul A. Lombardo, ed. *A Century of Eugenics in America: From the Indiana Experiment to the Human Genome Era*, (Bloomington: Indiana University Press, 1992); Later scholars pointed out the pseudo science's hypocrisy and undeniable link to racism and white supremacy.

⁵ Hansen, et. al., *Sterilized by the State*, 2013; Kline, *Building a Better Race*, 2001; Kluchin, *Fit to be Tied*, 2011; Ordover, *American Eugenics*, 2003; Bruinius, *Better for all the World*, 2006; Schoen, *Choice and Coercion*, 2005; Jennifer Nelson, *Women of Color and the Reproductive Rights Movement*, (New York: NYU Press, 2003); Jennifer Nelson, *More Than Medicine: A History of the Feminist Women's Health*

In tracing the battles over Norplant, this dissertation builds upon historical studies of eugenics and population control movements. Historians have documented the legacy of eugenics in the postwar period and its connection to population control ideologies and practices. For instance, historian Rebecca Kluchin uses the term neo-eugenics to describe the continued “ideas, practices, and policies” of eugenics after World War II. According to Kluchin, the government’s use of Norplant to control poor and minority women’s reproduction highlighted two themes central to neo-eugenic thought.⁶ First, that white middle-class women are more competent mothers than their African American counterparts, and second, that the government has the right to control the reproduction of women dependent upon the state for welfare benefits.⁷ Kluchin, along with scholars like Nancy Ordover and Harriet A. Washington, employs Norplant’s history to show how population control practices based on eugenic theories were fundamental to 1990s political narratives and social policies that blamed poor and minority women for economic downturns.⁸

My research suggests that Norplant’s connection to population control politics dates back to the 1960s. I argue that Norplant was a product of the population control

Movement, (New York: New York University Press, 2015); Andrea Smith, *Conquest: Sexual Violence and American Indian Genocide*. (Brooklyn: South End Press, 2005); Elena R. Gutiérrez, *Fertile Matters: The Politics of Mexican-Origin Women’s Reproduction*, (Austin: University of Texas Press, 2008); Andrea Tone, *Devices and Desires: A History of Contraceptives in America*, (New York: Hill and Wang: A Division of Farrar, Straus and Giroux, 2001).

⁶ Kluchin, *Fit to be Tied*, 3.

⁷ Kluchin, *Fit to be Tied*, 3.

⁸ Harriet A. Washington, *Medical Apartheid: The Dark History of Medical Experimentation on Black Americans from Colonial Times to the Present*, (New York: Anchor Books: A Division of Random House, Inc., 2006), 7, 206-211; Nancy Ordover, *American Eugenics: Race, Queer Anatomy, and the Science of Nationalism*, (Minneapolis: University of Minnesota Press, 2003); Kluchin, *Fit to be Tied*, 2009.

movement, which grew in popularity in the 1950s and 1960s, and the drug's unethical testing trials in places like Bangladesh, Brazil, Egypt, and Indonesia demonstrate that the Population Council sponsored the contraceptive's development with the intent of using it to limit population growth in the Global South.

In the 1980s, feminist activists from the Global South were the first to substantiate Norplant's link to population control politics. Their investigations of the drug's testing trials revealed alarming ethical violations, including the dissemination of inaccurate and incomplete information, the use of threats to attract participants, and evidence demonstrating that many healthcare practitioners conducting the trials refused to remove the Norplant device upon patients' requests. After discovering the poor treatment of testing trial participants, feminists in places like Bangladesh, Indonesia and Brazil mobilized. Third World feminists' early campaigns against Norplant focused on dismantling the testing trials, providing local women with accurate information about Norplant, and warning international feminists and women's health activists of Norplant's ties to temporary sterilization practices.⁹

After Norplant was FDA approved in 1990, some policymakers, judges, and local leaders in the U.S. attempted to use Norplant to control poor and minority populations. These temporary sterilization practices were part of a larger effort to criminalize

⁹ Stevienna de Saille, *Knowledge as Resistance: The Feminist International Network of Resistance to Reproductive and Genetic Engineering*, (Sheffield: Palgrave Macmillan, 2017), 142; Jacqui Alexander, "Mobilizing against the State and International 'Aid' Agencies: 'Third World' Women Define Reproductive Freedom," in *From Abortion to Reproductive Freedom: Transforming a Movement*, ed. Marlene Gerber Fried, (Boston: South End Press, 1990), 52-53; Farida Akhter, *Resisting Norplant: Women's Struggle Against Coercion and Violence*, ed. Farida Akhter (Dhaka: Narigrantha Prabartana, 1995); Barbara Mintzes, Anita Hardon, and Jannemieke, ed., *Norplant: Under Her Skin*, (Delft: Eburon, 1993).

populations of color and reform the welfare system during the second half of the twentieth century. Beginning in the 1970s, right-wing political figures and institutions constructed narratives that blamed the nation's economic recession and rises in criminal activity on poor and minority populations. Playing into these politicized narratives, in the 1980s, President Ronald Reagan's administration passed policies that placed harsh minimum sentencing laws on crack cocaine related crimes, an inexpensive drug often associated with poor and minority communities. Conversely, the legal consequences linked to powder cocaine, a more costly drug frequently used by white and middle and upper-class populations, remained nominal. As a result of these policies, the nation's incarceration rates skyrocketed.¹⁰

Similarly, in the 1970s political discussions around welfare recipients became increasingly disparaging. Drawing on rare examples of welfare fraud, the Republican party political machine produced the myth of the welfare queen, a cartoonish image of a welfare recipient who was both lazy and cunning. By the 1990s, this false representation of welfare recipients was promoted by both political parties, and welfare recipients were forced to deal with political reforms that cut their monetary benefits and placed strict time limits on their welfare eligibility. Historical and sociological studies examining the 1990s argue that social policies, and particularly welfare reform, passed during the Clinton administration negatively impacted people living in poverty, and particularly

¹⁰ Charisse Jones, "Crack and Punishment: Is Race the Issue?" *New York Times*, October 28, 1995, accessed on November 2, 2019, <https://www.nytimes.com/1995/10/28/us/crack-and-punishment-is-race-the-issue.html>; Elizabeth Hinton, "Why We Should Consider the War on Crime," *Time Magazine*, August 17, 2014, accessed on October 14, 2019, <https://time.com/3746059/war-on-crime-history/>; Elizabeth Hinton, *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America* (Cambridge: Harvard University Press, 2016).

communities of color. The Clinton administration's welfare and criminal justice reforms reinforced racial stereotypes that painted Black men as criminals and Black women as lazy and unfit for motherhood.¹¹ Politicians used this rhetoric to argue that incentivizing Norplant use for the working-class would eradicate poverty-related issues.

This dissertation demonstrates that the use of Norplant in the U.S. as a tool to sterilize vulnerable populations was more pervasive than many scholars have suspected. Lawmakers at the state level, county judges, city officials, and community leaders tried to use Norplant to limit birth rates amongst poor and minority populations. For example, many state lawmakers proposed plans that would incentivize the use of Norplant among welfare recipients by offering them money to have the device inserted. Additionally, clinics in Baltimore public schools offered students the option to have Norplant implanted with the hope of decreasing the city's high teenage pregnancy rates. These practices were not confined to a single region. They impacted poor and minority women across the U.S. To justify these tactics, political and community leaders argued that an increased Norplant use amongst poor and minority women would help solve the problem

¹¹ Edward D. Berkowitz, *America's Welfare State From Roosevelt to Reagan*, (Baltimore: The Johns Hopkins University Press, 1991); Marisa Chappell, *The War on Welfare: Family, Poverty, and Politics in Modern America*, (Philadelphia: University of Pennsylvania Press, 2010); Lisa Marie Cacho, *Social Death: Radicalization, Rightlessness, and the Criminalization of the Unprotected*, (New York: New York University Press, 2012); Linda Gordon, *Pitied but not Entitled: Single Mothers and the History of Welfare*, (New York: Free Press, 1994); Alice Kessler-Harris, *In Pursuit of Equity: Women, Men, and the Quest for Economic Citizenship in 20th-Century America*, (New York: Oxford University Press, 2001); Julilly Kohler-Hausmann, "Welfare Crises, Penal Solutions, and the Origins of the 'Welfare Queen,'" *Journal of Urban History* 4 (2015); Pamela Loprest, Stefanie Schmidt, Ann Dryden Witte, "Welfare Reform under PRWORA: Aid to Children with Working Families," *Tax Policy and the Economy* 14 (2000); Yascha Mounk, *The Age of Responsibility: Luck, Choice, and the Welfare State*, (Cambridge: Harvard University Press, 2017); Brenda Stevenson, *The Contested Murder of Latasha Harlins: Justice, Gender, and the Origins of the LA Riot*, (Oxford: Oxford University Press, 2013); Elizabeth Hinton, *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America*, (Cambridge: Harvard University Press, 2016).

of poverty. This rationalization closely resembles arguments previously employed by eugenicists and population control advocates.¹²

My analysis of 1990s social policy builds on the work of legal scholar Dorothy Roberts, who in her 1997 book, *Killing the Black Body: Race Reproduction and the Meaning of Liberty*, argues that white men's efforts to control black women's reproduction has been a longstanding form of racial oppression. For example, prior to the Civil War, enslaved women's value and treatment reflected their abilities to produce healthy offspring that would enrich their masters. Later in the 1930s, eugenics and birth control advocate Margaret Sanger strongly encouraged African Americans to use birth control believing that fewer children would benefit the Black community and help curb their poverty. While Roberts suggests that American lawmakers, community leaders, and judges used Norplant to control Black women's fertility and maintain a social hierarchy that favored white males, this dissertation delves into the topic more deeply and has uncovered an even more complicated history.¹³

The efforts targeted a wider range of minority women both in the U.S. and in the Global South than historians have acknowledged. Policies that forcefully encouraged Norplant use targeted Black and Latina women as well as Native communities living on reservations and poor white women who relied on Medicaid. Beginning in the early 1990s, healthcare professionals working for the Indian Health Service (IHS), a government agency focused on providing Native communities with healthcare,

¹² Kluchin, *Fit to be Tied*, 2009.; Washington, *Medical Apartheid*, 2006; Ordoover, *American Eugenics*, 2003; Roberts, *Killing the Black Body*, 1997.

¹³ Roberts, *Killing the Black Body*, 6, 25, 75.

aggressively prescribed Norplant to Native women without fully considering the drug's risks, contraindications, and their patients' medical histories. These insufficient medical procedures caused thousands of women to suffer from an array of side effects, including headaches, pain and scarring at the place of insertion, significant weight gain, and irregular and serious bleeding.¹⁴

Historians who study the U.S. women's health movement have shown how, in the 1990s, women of color and indigenous women developed the concept of "reproductive justice" to draw attention to the unlawful and immoral controls placed on minority women's bodies and to spotlight the ways minority women often experienced reproductive health discrimination differently than white women. Reproductive justice activists fought not only for safe, legal, and affordable abortions but also for access to all forms of reproductive health care, affordable childcare and prenatal care, and freedom from state-sanctioned sterilizations.¹⁵ Historians and activists have begun to document reproductive justice organizations' grassroots campaigns against Norplant, and they have interpreted the contraceptive device's removal from the American market as an early reproductive justice victory.¹⁶

¹⁴ Natasha Lewry, "The Impact of Norplant in the Native American Community," (Native American Women's Health Education Resource Center: A Project of the Native American Community Board, June 1992); Lin Krust, "A Study of the Use of Depo-Provera and Norplant by the Indian Health Services (Revised)," (Native American Women's Health Education Resources Center: A Project of the Native American Community Board, July 1993); Charon Asetoyer, interview by Joyce Follet, transcript of video recording, September 2, 2005, Voices of Feminism Oral History Project, Sophia Smith Collection, Smith College, Northampton, MA 01063, 49; Farida Akhter, *Resisting Norplant: Women's Struggle Against Coercion and Violence*, (Dhaka: Narigrantha Prabantana, 1995).

¹⁵ Jael Silliman et al., *Undivided Rights*, 4.

¹⁶ In 2004, a team of African American, Latin American, and white American women activists wrote the first history of the 1990s reproductive justice movement, *Undivided Rights: Women of Color Organize for Reproductive Justice*. This source outlines many different feminist and women's health organizations' agendas and tactics at the end of the twentieth century. Jael Silliman et al., *Undivided Rights*, 2004; Kline,

By demonstrating that U.S. feminist activism opposing Norplant drew on and was in conversation with a transnational campaign rooted in the Global South, this dissertation connects the U.S. reproductive justice and women's health movements in the 1980s and 1990s to the larger international feminists' movement. Even before Norplant was FDA approved, the feminists in the Global South, who uncovered testing trials' ethical violations, warned feminists in the U.S. of Norplant's link to reproductive abuses. These alerts prompted American reproductive justice and women health organizations to mobilize against the drug and the policies surrounding it. U.S. feminists learned about the drug and its link to reproductive abuses after feminists in the Global South had mobilized. In this way, U.S. feminists were the beneficiaries of these early campaigns.¹⁷

In the mid-1990s, class action lawyers began filing cases against Wyeth-Ayerst on behalf of Norplant patients. Previous scholarship examining feminists' interactions with class action lawsuits has explored cases in which women's health activists used class action litigation to shed light on medical devices and pharmaceutical drugs they

Bodies of Knowledge, 2010; Kelly Suzanne O'Donnell, "The Political is Personal: Barbara Seaman and the History of Women's Health Movement" Ph.D. diss., (Yale University, 2015); Sandra Morgen, *Into Our Own Hands: The Women's Health Movement in the United States, 1969-1990*, (New Brunswick: Rutgers University Press); Nelson, *More than Medicine*: 2015; Smith *Conquest*, 2005; Jane Lawrence, "The Indian Health Service and the Sterilization of Native American Women," *The American Indian Quarterly* 24:3 (Summer 2000); Lorretta J. Ross and Rickie Solinger, *Reproductive Justice: An Introduction*, (Oakland: The University of California Press, 2017); Lorretta J. Ross, Lynn Roberts, Erika Derkas, Whitney Peoples, Pamela Bridgewater, eds. *Radical Reproductive Justice: Foundation, Theory, Practice, Critique*, (New York: First Feminist Press, 2017).

¹⁷ Meredith Turshen, *Women's Health Movements: A Global Force for Change*, (Houndmill: Palgrave Macmillan, 2007); Betsy Hartmann, *Reproductive Rights and Wrongs: The Global Politics of Population Control, Third Edition*, (Chicago: Haymarket Books, 2016); Rosalind Pollack Petchesky, *Global Prescriptions: Gendering Health and Human Rights*, (London: Zed Books, 2003); Stevienna de Saille, *Knowledge as Resistance: The Feminist International Network of Resistance to Reproductive and Genetic Engineering* (Sheffield: Palgrave Macmillan, 2017); James G. III. Connell, *Norplant and the New Paradigm of International Population Policy*, 2 Wm. & Mary J. Woman & L. 73 (1995).

considered unsafe. Beginning in the 1970s, as more lawyers recognized the possibility for significant profits, product liability class action litigation, which pitted thousands of plaintiffs against a single often wealthy corporation, rose in numbers. This shift led to massive class action lawsuits ending in substantial settlements that profited both the lawyers and the plaintiffs.¹⁸ Although only a few women's health activists participated in the class action litigation, my research demonstrates that class action litigators employed feminist arguments against Norplant to construct their cases.

The litigation against Norplant grew rapidly, and by the late 1990s, about 50,000 plaintiffs had signed onto two hundred class action lawsuits across the country.¹⁹ Although most of the participating attorneys had no connection to the feminist movement, when constructing their cases against Norplant, they used women's health activists' arguments concerning Norplant's risks and side effects. At the same time, the lawyers ignored reproductive justice and women's health advocates' call to end coercive population control policies because they believed those arguments could curtail their chances of winning a large settlement. I contend that the attorneys assumed the stereotypes characterizing poor and minority women as greedy and lazy would hinder such a case. While the class action lawsuits did not win a large settlement for the

¹⁸ Marcia Angell, *Science on Trial: The Clash of Medical Evidence and the Law in the Breast Implant Case*, (London: W.W. Norton & Company, 1996); Hensler, Nicholas M. Page, Bonita Dombey-Moore, Beth Giddens, Jennifer Gross, and Erik K. Moller, *Class Action Dilemmas: Pursuing Public Goals for Private Gain*, (Santa Monica: RAND Institute for Civil Justice, 2000), 10; "Supreme Court to Decide Whether to Certify Largest Class Action in History," *The Bottom Line HR: News You Can Use* 6:1 (February 2011).

¹⁹ Elaine Tyler May, *American and the Pill: A History of Promise, Peril, and Liberation*, (New York: Basic Books, 2010), 139.

plaintiffs, the publicity surrounding them gravely impacted Norplant sales leading Wyeth-Ayerst to remove the contraceptive device from the American market in 2002.²⁰

The class action litigation against Norplant reveals the ways feminists' labor is both co-opted and overlooked. Class action lawyers studied reproductive justice and Third World feminists' Norplant investigations to research the drug and its history, attract plaintiffs, and construct their legal arguments. Despite the clear connection between the feminist movement and the class action litigation, lawyers refused to address their plaintiffs' racial or socio-economic identities or the link between Norplant and population control politics in the 1990s. Because lawyers ignored feminist arguments addressing issues of forcible sterilizations, much of the public remained unaware of Norplant's link to population control efforts.²¹

The following chapters explore different phases in Norplant's lifespan. Chapter two contextualizes the circumstances of Norplant development beginning in the 1960s. In it, I argue that Norplant was linked to the population control movement, and the Population Council intended to use the contraceptive implant to limit pregnancies amongst poor women living in the Global South. Because many women in the Global South needed effective contraceptives, the Population Council and governmental authorities were able to push Norplant use in nations like Bangladesh and Indonesia.

²⁰ Arthur González interview by Justina Licata, Skype, November 7, 2018.

²¹ "Native American Women's Group Issued Critical Reports on Norplant," *Mealey's Litigation Reports: Norplant* 1:5 (January 23, 1995, 11); "A 1988 Report from Bangladeshi Interest Group Questions Norplant Trials," *Mealey's Litigation Reports: Norplant* 1:1 (November 3, 1994), 37-38; "Judicial Panel on Multidistrict Litigation" Federal Judicial Center, accessed on March 4, 2019, <https://www.fjc.gov/history/timeline/judicial-panel-multidistrict-litigation>.

Further, my research reveals that Third World feminists were the first to advocate against Norplant during the drug's testing trials. This chapter takes a detailed look at feminist driven campaigns in Bangladesh and Egypt. In doing so, I demonstrate the lengths feminists in the Global South had to take to gain knowledge and assist women in their local communities. Despite these struggles, Third World feminists did not stop their efforts at their border, instead late in the 1980s, they used their knowledge to warn women's health activists in the U.S. and around the globe.

The third chapter shifts to the U.S., examining the many ways judges, lawmakers, and community leaders used Norplant to attempt to control minority and poor women's reproduction. In the early to mid-1990s, several county judges compelled women convicted of child abuse or neglect to use Norplant, state lawmakers' from across the U.S. proposed programs that encouraged welfare recipients to use the contraceptive implant, and one foster mother established a nonprofit organization that paid women struggling with substance abuse to either be surgically sterilized or use long-term forms of birth control, including Norplant. Additionally, the city of Baltimore's health commissioner created a program that allowed public school health clinics to prescribe Norplant to their teenage patients. Each incident caused tense debates both locally and nationally, dividing previously aligned communities and creating unexpected bedfellows. For example, Baltimore's Norplant program caused a massive rift within the African American community, revealing ideological disputes and divisiveness among classes. Through my examination of these incidents, I argue that Norplant's history must be examined alongside other policies that have come to define the bipartisan, right-leaning

political shift in the 1980s and 1990s, including welfare reform, the War on Drugs, and the rise in incarcerations.

Chapter four focuses on the feminist activism against Norplant in the U.S., with particular emphasis on Native American Women's Health and Education Resource Center's campaign against the IHS's use of Norplant on Indian reservations. In the late 1980s, after Third World feminists warned them of Norplant's connection to coercive sterilizations, women's health and reproductive justice activists spoke out against Norplant's pending FDA approval. Later when Norplant became available in the U.S., women's health and reproductive justice activists generated multiple campaigns to get rid of the device and halt the coercive policies surrounding the implantation and removal of Norplant. They worked to overturn abusive policies, assert personal and private reproductive control, and rectify inaccurate stereotypes attached to poor and minority women. The women of color and indigenous women driving these campaigns were part of the rise of the reproductive justice movement, which expanded the reproductive rights agenda to better represent the experience of all women.

Chapter five investigates the more than two hundred class action lawsuits filed on behalf of Norplant patients. When constructing their cases, profit-seeking class action lawyers co-opted feminists' arguments against Norplant, but they avoided addressing the drugs ties to coercive population control politics because they believed it would hinder their cases. I argue that the political attacks painting poor and minority women as lazy and entitled stopped lawyers from constructing arguments that confronted the temporary sterilization practices. Although the lawsuits did little to help the women who were

pressured into using Norplant, they did convince the public that the contraceptive device was dangerous. After Norplant's sales plummeted in the late 1990s, Wyeth-Ayerst removed it from the American market in 2002.

My Epilogue brings the story closer to the present. Although Norplant is no longer available for use, Nexplanon, another subdermal implantable contraceptive device, has replaced it. Many women are grateful to have the option to use a subdermal implantable contraceptive device as their birth control method. Conversely, evidence shows that governments and NGOs continue to use Nexplanon, along with other long acting reversible contraceptives (LARCs), including intrauterine devices (IUDs) and Depo-Provera, to temporarily sterilize women in the U.S. and around the globe.

CHAPTER II

THE GLOBAL ORIGINS OF THE FEMINISTS CAMPAIGN AGAINST NORPLANT

Feminists in the Global South initiated a powerful international campaign against Norplant. In the 1980s and 1990s, feminists from Latin America, Asia, Africa, and the Middle East mobilized against Norplant. These early grassroots campaigns eventually became a larger international women's movement. As early as the 1980s, feminists in Bangladesh, Indonesia, Brazil, and Egypt, questioned Norplant's safety and spoke out against its testing trials' ethical violations. Many of these activists were part of feminist organizations, such as Unnayan Bikalper Nitinirdharoni Gobeshona (UBINIG) in Bangladesh or the Human Reproductive Rights Studies Commission (CEDRH) in Brazil, that were fighting against oppressive governments that used women's reproduction to control working class and minority populations; often through state-sanctioned sterilizations. While they understood the importance of access to birth control, they viewed the use of provider controlled contraceptive, like Norplant, to limit the reproduction of poor and indigenous groups as part of a long history of colonial and racist oppression linked to eugenic practices.

The mobilizations against Norplant in Bangladesh, Brazil, Egypt, and Indonesia directly influenced U.S. feminists' and women's health advocates' perception of Norplant before the drug was Food and Drug Administration (FDA) approved and helped put activists from different countries into conversation. Further, the activists in Bangladesh

developed pioneering research methods that U.S. women's health organizations would emulate in the 1990s.¹

Norplant's creation and development in countries like Brazil and Chile, was part of a long history of global population control politics and family planning policies. Early in the twentieth century, scientists', doctors', and lawmakers' use of popular eugenic theories led to an important shift in U.S. birth control politics. Eugenicists in the U.S. argued that the sterilization of "feeble-minded" individuals, particularly women, would prevent unwanted children, preserve a stronger race, and save the nation money.² Americans' desire to prevent the widespread growth of poor communities led to an important shift in birth control rhetoric. Where birth control had been seen as a technology that helped women control their reproduction, eugenicists and population control advocates viewed birth control as a way to prevent poor and minority populations from increasing. Therefore, the need for more effective birth control technology became essential to the growth of eugenics. Though some women, particularly white and wealthy women, often celebrated new forms of birth control as potentially empowering, others, especially poor women and women of color understood that the scientific, medical, and

¹ Stevienna de Saille, *Knowledge as Resistance: The Feminist International Network of Resistance to Reproductive and Genetic Engineering*, (Sheffield: Palgrave Macmillan, 2017), 142; Jacqui Alexander, "Mobilizing against the State and International 'Aid' Agencies: 'Third World' Women Define Reproductive Freedom," in *From Abortion to Reproductive Freedom: Transforming a Movement*, ed. Marlene Gerber Fried, (Boston: South End Press, 1990), 52-53. In 1990, feminist and scholar Jacqui Alexander observed, "The histories of 'third world' women have been marked by colonialism and imperialism, both by the superimposition of European political and economic interests as well as by the ideology which colonizers produced to justify and legitimate their rule." She continued by commenting on women's agency, "there continues to be colonization of a different kind which...women in 'third world'

² Randell Hasen and Desmond King, *Sterilized by the State: Eugenics, Race, and the Population Scare in Twentieth Century North America*, (New York: Cambridge University Press, 2013), 104.

legal communities often used contraceptives as a way to control the reproduction of certain populations.³

Scholars have shown that the U.S. government and private organizations used the concept of population control as a means to perpetuate colonialism in the second half of the twentieth century.⁴ Following World War II, the U.S. became a major world power, and the nation's need for raw materials from the Global South increased. A group of American scientists, philanthropists, and reformers expressed concern over the imminent possibility of a global population upsurge. Fears of overpopulation were reinforced by crowded cities, air and water pollution, high numbers of unplanned births, and the conservative political narrative that blamed increases in taxes on welfare benefits when they were a small fraction of the federal budget, especially compared to the nation's defense spending in the mid-twentieth century.⁵

Significant political figures became deeply involved in the population control movement, including one of the U.S.'s most prominent philanthropists, John D. Rockefeller III, who believed, "the relationship of population to material and cultural resources of the world represents one of the most crucial and urgent problems of the day."⁶ In 1952, Rockefeller invited Planned Parenthood leaders, thirty conservationists,

³ Iris Lopez, *Matters of Choice: Puerto Rican Women's Struggle for Reproductive Freedom*, (New Brunswick: Rutgers University Press, 2008), 5.

⁴ Betsy Hartmann, *Reproductive Rights and Wrongs: The Global Politics of Population Control, Third Edition*, (Chicago: Haymarket Books), 97; Monica Bahati Kuumba, "Neo-Colonialism through Population Control: South Africa and the United States, *Africa Today* 40:3 (3rd Quarter, 1993), 79; Matthew Connelly, *Fatal Misconception: The Struggle to Control World Population*, (Cambridge: The Belknap Press of Harvard University Press), 2-3.

⁵ Rebecca M. Kluchin, *Fit to be Tied: Sterilization and Reproductive Rights in America, 1950-1980*, (New Brunswick: Rutgers University Press, 2009). 33-34.

⁶ Hartmann, *Reproductive Rights and Wrongs*, 97.

and development and demographic experts to a population conference in Williamsburg, Virginia. The conference produced the Population Council, a New York based agency with partners around the world. This international non-governmental organization (NGO) advocated for “population control” as a means of curtailing global poverty and focused on creating new forms of contraception for poor, uneducated women, especially in the Global South. From its start, the organization had close ties to the eugenics movement. In fact, one of its co-founders, Fredrick Osborne, was once the president of the American Eugenics Society.⁷ Scholars argue that the Population Council’s sophisticated approach to population control rid it of “its racist and eugenic content.”⁸ The NGO would become not only the world’s leading institution for population related research, but it would also be central to this political debate with long standing connections to the Rockefeller Foundation, the UN, and the Ford Foundation.⁹ The Population Council would go on to fund the development and testing of Norplant.¹⁰

Shortly after it was founded, The Population Council began advising nations’ governments on ways to establish family planning programs that provided indigenous women with contraception options, including sterilization.¹¹ Early family planning

⁷ Linda Everett, “The Population Council: from eugenics to Norplant,” *Executive Intelligence Review* 20:19 (May 14, 1993, 23): accessed on July 3, 2019, https://larouchepub.com/eiw/public/1993/eirv20n19-19930514/eirv20n19-19930514_023-the_population_council_from_euge.pdf; Wolfgang Saxon, “Fredrickson Osborn, A General, 91, Dies,” *New York Times*, January 7, 1981, accessed on July 3, 2019, <https://www.nytimes.com/1981/01/07/obituaries/frederick-osborn-a-general-91-dies.html>.

⁸ Thomas M. Shapiro, *Population Control Politics: Women, Sterilization and Reproductive Choice*, (Philadelphia: Temple University Press, 1985), 63.

⁹ Connelly, *Fatal Misconception*, 159.

¹⁰ Dorothy Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty*, (New York: Pantheon Books: A Division of Random House, Inc., 1997), 139; Shapiro, *Population Control Politics*, 64-65.

¹¹ Hartmann, *Reproductive Rights and Wrongs*, 97.

programs focused on demographics measuring their objective to reduce high fertility rates and minimize population growth. The Population Council argued that family planning programs, which were meant to provide women with reproductive care and supply them with safe and effective birth control, would increase “living standards and human welfare, economic productivity, natural resources, and the environment in the developing world.”¹² While the council did hope to improve the lives of indigenous people, neither the organization nor governments in the Global South prioritized women’s reproductive health and rights. Instead, they approached issues related to women’s health paternalistically, rather than empowering women to make decisions about their bodies.¹³

The history of Norplant’s testing trials in the Global South is reminiscent of the birth control pill’s trials in Puerto Rico during the 1950s. Birth control and eugenics advocates in the early twentieth century believed that effective contraceptives and sterilization practices would improve a nation's overall quality of life, especially amongst working class populations.¹⁴ Since the U.S. acquired Puerto Rico in 1899, policymakers and journalists characterized the island as a victim of severe overpopulation.¹⁵ The U.S.

¹² Judith R. Seltzer, *The Origins and Evolution of Family Planning Programs in Developing Countries*, (Santa Monica: Population Matters: A RAND Programs of Policy-Relevant to Research Communication, 2002), xiii.

¹³ Seltzer, *The Origins and Evolution of Family Planning Programs in Developing Countries*, xiii.

¹⁴ Laura Briggs, *Reproducing Empire: Race, Sex, Science and U.S. Imperialism in Puerto Rico*, (Berkeley: University of California Press, 2002), 99-100, 108.

¹⁵ Lopez, *Matters of Choice*, 5-6; Betty Wand, Georges Chakiris, The Sharks, Their Girls, “America,” *West Side Story*, Columbia Masterworks Records, 1961, MP3. This rhetoric was so pervasive, it became a part of Americans' understanding of Puerto Rico. For example, in the popular 1960s musical *West Side Story*, a Puerto Rican character reflecting on the issues affecting her home country and the hardships her and her fellow Puerto Ricans faced after immigrating to the U.S., sings the lyrics, “Always the population growing” while performing the upbeat number “America.”

concealed their use of Puerto Rico's resources and their continued political involvement by emphasizing their concerns over the territory's rapidly increasing population.¹⁶ And the U.S. government justified their eugenic practices, in particular their coercive use of birth control, by blaming Puerto Rican women for the territory's severe overpopulation.¹⁷ This led to an influx of birth control clinics in the 1930s. Charlotte Bermudez, a North American woman who started a clinic in Puerto Rico, once told Margaret Sanger, "So many of the natives are unmoral [*sic*]. We want to put the status of the home and legally married woman and the legitimate children on a higher plane than they are at present."¹⁸ These prejudicial beliefs about Puerto Rican women's purity and ethics are a part of a larger history of white upper class women exerting their power over the working class and minority women and deciding who is worthy of assistance and who is not.¹⁹

Early researchers of the contraceptive pill were unaware of the drug's possible side effects; therefore, they hesitated to use the technology. By 1955, three pharmaceutical companies had patents and completed animal studies, which would allow them to begin clinical trials. While two of the companies felt it was still too dangerous to

¹⁶ Briggs, *Reproducing Empire*, 108.

¹⁷ Lopez, *Matters of Choice*, 5-6; Briggs, *Reproducing Empire*, 74-108; Rebecca M. Kluchin. *Fit to be Tied: Sterilization and Reproductive Rights in America, 1950-1980*; (New Brunswick: Rutgers University Press, 2009), 3; Neo-eugenics is the continued legacy of eugenics in the post-baby boomer era. Although neo-eugenics was not a formal movement, many groups including scientists, physicians, and politicians adhered to its goals. The main difference between eugenicists and neo-eugenicists is the individuals targeted for sterilization. Prior to the Second World War, eugenicists focused their attention on eastern and southern European immigrants. In the 1950s and beyond, neo-eugenicists placed their attention on African Americans, Native Americans, and people of Hispanic descent. Neo-eugenics, like eugenics, used reproductive fitness, or the belief that the sterilization of "unfit" individuals would strengthen the human gene pool and improve society for all, as justification for their actions.

¹⁸ Briggs, *Reproducing Empire*, 95.

¹⁹ Linda Gordon, *The Moral Property of Women: A History of Birth Control Politics in America*, (Urbana: University of Illinois Press, 1974), 72-85.

conduct trials, the third, Searle, started testing the oral contraceptive in Puerto Rico.²⁰ During the 1940s and 1950s, Searle worked with Clarence Gamble, who used his family's fortune to test an array of contraceptive technologies in Puerto Rico, including the oral birth control pill.²¹ The largest trial in 1956 attracted hundreds of Puerto Rican women who had previously been denied their request for a surgical sterilization because they did not fulfill the country's strict restriction of having three children by the age of twenty. The lack of effective birth control options motivated women to participate despite the possible dangers.²²

As scientists had predicted, the trials proved that the oral contraceptive was still a mystery to the researchers and the medical professionals conducting the trial. Patients were not given enough information about the drug, causing many to take the contraceptive incorrectly.²³ Participants experienced an array of side effects, including acute headaches, nausea, irregular bleeding, and vomiting. Some patients' side effects were so severe they were hospitalized.²⁴ Additionally, several women became pregnant. These negative experiences led about half of the participants to abandon the trial.²⁵ Despite the clear ethical violations, Searle pressed on with the Pill trials, even beginning

²⁰ Briggs, *Reproducing Empire*, 99-100, 131.

²¹ Lopez, *Matters of Choice*, 16-17; Elizabeth Siegel Watkins, *On the Pill: A Social History of Oral Contraceptives, 1950-1970*, (Baltimore: The Johns Hopkins University Press, 1998), 15; Johanna Schoen, *Choice and Coercion: Birth Control, Sterilization, and Abortion in Public Health and Welfare*, (Chapel Hill: UNC Press, 2005), 208-215; Two prominent female activists, Margaret Sanger and Katherine McCormick, funded the research that led to the development of the Pill.

²² Schoen, *Choice and Coercion*, 209.

²³ Schoen, *Choice and Coercion*, 213.

²⁴ Briggs, *Reproducing Empire*, 137; Lopez, *Matters of Choice*, 17.

²⁵ Briggs, *Reproducing Empire*, 137; Schoen, *Choice and Coercion*, 213; Andrea Tone, *Devices and Desires: A History of Contraceptives in America*, (New York: Hill and Wang: A Division of Farrar, Straus and Giroux, 2001), 220-224.

a new trial in Haiti in 1957. Puerto Rico was also the test site for Depo Provera and various other intrauterine devices (IUDs).²⁶ The Puerto Rican trials confirmed the U.S.'s ability to overlook ethical violations, especially when their objective was to control populations that Americans saw as outsiders. Just a few years later in 1960, the oral birth control pill was FDA approved, but initially, doctors were only permitted to prescribe it for two consecutive years because researchers were still unaware of the drug's long-term side effects.²⁷

The U.S. government began supporting population control legislation more aggressively in the 1960s. In 1966, the Food for Freedom bill addressed concerns regarding the global population boom in relation to the world's food supply. The bill allowed food aid revenues to financially support family planning services throughout the Global South. In addition, the following year, Congress agreed to allocate thirty five million dollars to the Agency for International Development (USAID) for population programs.²⁸ A USAID representative stated that the government's financial support gave the agency a greater ability to offer women, "a full spectrum of assistance." In 1969, the U.S. government, under Nixon's administration, urged the United Nations (UN) to become a leader in population control policies.²⁹

Just a few years later, the UN named 1974 the World Population Year and held a conference on population in Bucharest, Romania. The conference revealed that the UN

²⁶ Briggs, *Reproducing Empire*, 108, 129; Lopez, *Matters of Choice*, 16-17.

²⁷ Tone, *Devices and Desires*, 231.

²⁸ Hartmann, *Reproductive Rights and Wrongs*, 101.

²⁹ R. T. Ravenholt, "The A.I.D. Population and Family Planning Program--Goals, Scope, and Progress," *Demography* 5:2 (1968), 562.

saw the global population growth as a danger that hindered economic and social development. While many world powers saw population growth as an obstacle, a number of nations in the Global South felt the issue was being used to evade examining more profound sources of underdevelopment, including inequality in international relationships.³⁰ A representative from India stated that “development is the best contraceptive,” while also expressing his nation’s concerns over the West’s high level of consumption of resources.³¹ At the conference, feminists joined other critics of population control policies in advocating for family planning programs that focused on women’s rights and overall better healthcare for communities in need. But the U.S. government remained committed to promoting population control around the world.³²

As fears of overpopulation mounted, the Population Council injected more funds into contraceptive research of implantable devices, vaginal rings, injectable birth control, a weekly pill, and post-coital pills.³³ Because the organization focused heavily on improving population control in the Global South, it is evident that Norplant’s original purpose was to aid nations in their efforts to stabilize their population growth rates. The development of the first implantable contraceptive device was galvanized by the introduction of two new birth control technologies, the IUD and the oral contraceptive pill, in the mid-twentieth century, which gave family planning programs additional tools for preventing pregnancies and stabilizing a nation’s population growth. The

³⁰ Hartmann, *Reproductive Rights and Wrongs*, 103.

³¹ Hartmann, *Reproductive Rights and Wrongs*, 104.

³² Hartmann, *Reproductive Rights and Wrongs*, 105.

³³ Shapiro, *Population Control Politics*, 72.

technologies' successes led organizations and foundations, both public and private, to dedicate more funding to the research and development of new contraceptive technologies.³⁴

In the 1960s, the Population Council's Center for Biomedical Research began the development program that would lead to the creation of Norplant. To conduct this research the Population Council received funding from the National Institute of Health and the United States Agency for International Development (USAID).³⁵ As a postgraduate fellow, Dr. Horacio B. Croxatto, a Chilean physician-scientist, presented the use of Silastic, or medical grade plastic, subdermal implants for long-term, reversible hormonal birth control.³⁶ This early concept would eventually lead to the creation of Norplant. Dr. Sheldon Segal, the director of biomedical research at the Population Council and a well-known, leading innovator in contraception research, headed the project. In 1963, Segal was appointed the Director of the Division of Bio-Medical Science of the Population Council, after being a member of the division for seven years. He was also a visiting professor of Reproductive Physiology at the All India Institute of Medical Sciences in New Delhi and published many articles relating to embryology, endocrinology, and fertility regulation. As an advocate for effective and affordable contraception, Segal considered Norplant an important advancement in birth control

³⁴ Shapiro, *Population Control Politics*), 63.

³⁵ Turner W. Branch, "Norplant Litigation: An Overview," *Mealey's Litigation Reports* Volume 1:1 (November 3, 1994, 42).

³⁶ Laura J. Frost and Michael B. Reich. *Access: How do Good Health Technologies Get to Poor People in Poor Countries*, (Cambridge: The Harvard Center for Population and Development Studies, 2008) 117.

technology because it would allow “a woman to substitute one clinic visit for a thousand days of pill taking.”³⁷

The invention of a medical grade silicone polymer, Silastic, along with the discovery that a very low daily dose of oral progestin effectively prevented fertility, created the possibility of an implantable contraceptive. Thanks to these two scientific breakthroughs, in 1966, the Population Council began investigating the use of a Silastic capsule filled with progestin inserted under a woman’s skin as a new form of contraceptive technology. At this time, Silastic was being used in experimental surgeries, which led doctors to discover that oil-soluble dyes slowly diffused out of the medical grade plastic. Segal used this information to test if oil-soluble hormones would also seep through a Silastic capsule.³⁸ Early experiments showed that one capsule would prevent pregnancies for only one or two years; therefore, they considered more capsules. By 1974, the Population Council had begun testing a six-capsule Silastic delivery system.³⁹

This implantable birth control employed two methods to prevent a woman from conceiving. First, it suppressed ovulation in just over fifty percent of a woman’s menstrual cycles, and second, it thickened the cervical mucus making it more difficult for

³⁷ Frost et. al., *Access*, 117; “The Population Council to Population Council Donors in India,” July 17, 1963, box 4 folder 38: Biomedical Division, Segal, Sheldon, 1963-1966, Record Group IV3B43.2, FA210, PCR, RAC; “Introducing Norplant Implants in Developing Countries: What NGOs, Women’s Health Advocates, and the Media Should Know about Norplant Implants,” *The Population Council, Inc.*, 1993, 1966-2008, box 30, folder 13: Subject File: Norplant, 1992-1995, BWHBCAR, SL.

³⁸Frost et. al., *Access*, 117.

³⁹ Charles Ford and Sheldon J. Segal, “A potential Contraceptive Method Based on Recent Advances in Endocrinology and Medical Plastics,” March 18, 1966, box 4 folder 38: Biomedical Division, Segal, Sheldon, 1963-1966, Record Group IV3B43.2, FA210, PCR, RAC; “Introducing Norplant Implants in Developing Countries: What NGOs, Women’s Health Advocates, and the Media Should Know about Norplant Implants,” *The Population Council, Inc.*, 1993, Box 30, Folder 13 Subject File: Norplant, 1992-1995, BWHBCAR, SL.

the sperm to reach a woman's egg.⁴⁰ These two processes made the device highly effective; in fact, over the five year period, only 3.9 percent of users became pregnant while on Norplant.⁴¹ Also, the Population Council attested that studies showed that a woman's fertility would return shortly after the Norplant device was removed from her arm, making the contraceptive reversible.⁴² Segal and his colleagues chose to use levonorgestrel as the progestin in Norplant because it was FDA approved and used in other forms of birth control, including some pills, and at the time it was the "longest-working reliable progestin" available.⁴³ In 1966, Wyeth-Ayerst, the pharmaceutical company that developed levonorgestrel, permitted the Population Council to use levonorgestrel in their research of an implantable birth control device.⁴⁴

Clinical trials, which occurred between 1970 and 1975, established the most effective and safe combination of rods and hormone creating the Norplant system.⁴⁵ Segal and the Population Council choose to conduct the trials through a large clinical research group called the International Committee for Contraceptive Research (ICCR), which they created. Outside research groups, and not a team created by the drug's developer, typically conducted a drug's pharmaceutical testing, therefore the ICCR was

⁴⁰ Anita Hardon, "Norplant: conflicting views on its safety and acceptability," in *Norplant: Under Her Skin*, ed. Barbara Mintzes, Anita Hardon, and Jannemieke (Delft: Eburon, 1993), 9; The Population Council, "Guide to Effective Counseling About Norplant®: Contraceptive Subdermal Implant," box R2648, 8, RF 87068: Norplant Implant in Developing Countries Subgroup 1.19 (Unprocessed), RFR, RAC.

⁴¹ Hardon, "Norplant: conflicting views on its safety and acceptability," 9.

⁴² Hardon, "Norplant: conflicting views on its safety and acceptability," 9; "Post Marketing Surveillance of Norplant," Special Programme of Research, Development and Research Training in Human Reproduction, 1988, 2, box R3210 Folder UN World Health Organization Norplant in Developing Countries, 1986-1996 (unprocessed), Subgroup 1.25, RFR, RAC.

⁴³ Hardon, "Norplant: conflicting views on its safety and acceptability," 8.

⁴⁴ Branch, "Norplant Litigation: An Overview," 42.

⁴⁵ Hardon, "Norplant: conflicting views on its safety and acceptability," 7.

considered to be unorthodox.⁴⁶ During preliminary studies in Chile, Brazil, and India many women experienced ovarian hypertrophy, an increased number in ectopic pregnancies, which occur when a fertilized egg implants outside of a woman's uterus and can be extremely dangerous for both the mother and the child, and contraceptive failure. These results led the Population Council to raise the hormone dosage in the implant making it more effective at preventing pregnancies while also decreasing the risk of ectopic pregnancy.⁴⁷ Following these modifications in 1975, the ICCR began conducting Norplant's first multinational clinical trials in Brazil, Chile, Denmark, the Dominican Republic, Finland, and Jamaica.⁴⁸

Following the clinical research, in the 1980s, Norplant's accessibility trials were conducted. These trials examined how the drug's users reacted to the drug and whether or not they chose to continue using it, while also investigating its acceptability to possible patients, their husbands, and the family planning clinic personnel.⁴⁹ Through these trials, the Population Council made Norplant accessible to women living in Bangladesh, Colombia, Dominican Republic, Ecuador, Egypt, Haiti, Indonesia, Kenya, Mexico, Nepal, Peru, Sri Lanka, Thailand, and the U.S.⁵⁰ The Population Council used accessibility studies to create local experience with the drug and determine its feasibility in a number of countries before it was put on the market.⁵¹ By the time Norplant was

⁴⁶ Frost et al., *Access*, 118.

⁴⁷ Hardon, "Norplant: conflicting views on its safety and acceptability," 8.

⁴⁸ Hardon, "Norplant: conflicting views on its safety and acceptability," 8.

⁴⁹ Hardon, "Norplant: conflicting views on its safety and acceptability," 13.

⁵⁰ Frost et al., *Access*, 121.

⁵¹ Ana Cristina de Lima Pimentel, Cláudia Bonan Jannotti, aula Gaudenzi, Luiz Antonio da Silva Teixeira, "The brief life of Norplant in Brazil: controversies and assemblages between science, society and State," *Ciência & Saúde Coletiva* 22:1 (2017), 47.

FDA approved in 1990, it had undergone more accessibility studies than any other contraceptive.⁵² The size of the trials varied from 205 participants in a study in San Francisco to over 2,500 in a study that spanned four different countries.⁵³

In the 1980s, feminists in Bangladesh, Brazil, Egypt, and Indonesia organized against the Norplant trials. This was a moment in which they were already mobilizing for access to healthcare, freedom from sexual violence and state sanctioned sterilizations, and seeking greater socio-economic justice.⁵⁴ In Bangladesh, feminists argued that the government prioritized reducing the nation's growing population over indigenous women's rights and reproductive health. Bangladesh liberated itself from Pakistan in 1971, but prior to its independence, outside institutions, including the Population Council, funded family planning programs that pushed the use of IUDs and vasectomies.⁵⁵ Following the nation's independence, the new government established the National Population Council and committed to decreasing fertility without any attention paid to the improvement of women's health.⁵⁶ Betsy Hartmann, a U.S. women's health and reproductive rights activist and the director of the Population and Development Program, witnessed the effect of family planning programs in a small village in Bangladesh when she visited the nation in 1975. These workers encouraged the use of

⁵² Hardon, "Norplant: conflicting views on its safety and acceptability," 12.

⁵³ Hardon, "Norplant: conflicting views on its safety and acceptability," 14-15; "Introducing Norplant Implants in Developing Countries: What NGOs, Women's Health Advocates, and the Media Should Know about Norplant Implants," The Population Council, Inc., 1993, Box 30, Folder 13: Subject File: Norplant, 1992-1995, BWHBCAR, SL.

⁵⁴ Alexander, "Mobilizing against the State and International 'Aid' Agencies: 'Third World' Women Define Reproductive Freedom," 49-62.

⁵⁵ Hartmann, *Reproductive Rights and Wrongs*, 211.

⁵⁶ Hartmann, *Reproductive Rights and Wrongs*, 212.

birth control pills, IUDs, and sterilization, but they did not inform women about the risks and side effects associated with each nor did they encourage them to ask questions.⁵⁷ Western foreign institutions, including the UN's Population Fund and the World Bank, that provided the Bangladeshi government with significant financial aid, pressured the nation to substantially reduce their population growth. In 1984, the government started a "cash program" to incentivize sterilization. Policies penalized family planning personnel who did not meet sterilization quotas.⁵⁸

The Bangladeshi women's movement dates back to the nation's anti-colonial struggles. Although initially, in the 1970s and 1980s, the movement was made up of mostly professional, urban women, beginning in the 1990s, a greater variety of women organizations began to participate. These organizations ranged from local grassroots groups focused on their members' immediate communities to national organizations that mobilized on an international level. Bangladeshi feminist worked on an array of issues relating to poverty and gender disparities, including economic opportunities for women, violence against women, equal political representation, and family law reforms.⁵⁹

In the 1980s, Bangladeshi women activists began to respond to their government's population control policies. They created organizations like Unnayan Bikalper Nitinirdharoni Gobeshona (UBINIG), which in English translates to Policy Research for Development Alternative. UBINIG, which is still in existence today, is an

⁵⁷ Hartmann, *Reproductive Rights and Wrongs*, 209-210.

⁵⁸ Hartmann, *Reproductive Rights and Wrongs*, 213.

⁵⁹ Sohela Nazneen, "The Women's Movement in Bangladesh: A Short History and Current Debates," *Friedrich-Ebert-Stiftung*, 2017, accessed on December 4, 2018, <http://library.fes.de/pdf-files/bueros/bangladesch/13671.pdf>; Pranab Panday, *Women's Empowerment in South Asia*, (London: Routledge), 2016.

organization based in Dhaka, Bangladesh's capital. Since 1984, UBINIG has fought against population control policy and for greater reproductive rights for women. The organization was created to search for development alternatives that would aid people living in poverty and Bangladesh's marginalized populations. Using both scientific data and women's lived experiences, UBINIG researched issues related to harmful population policies, women's rights, healthcare, workers' rights, environmental concerns, human rights violations, and international trade. As the organization grew, its interactions with feminists on the international level increased dramatically. Some of UBINIG's most significant campaigns include working with garment workers to improve working conditions and establishing fair wages, researching the effects of trafficking on rural women living in poverty, and helping an array of diverse Bangladeshi communities to maintain their cultural traditions, such as food, music, crafts, and theatrical performance.⁶⁰

In February 1981 at the 16th Meeting of the National Council for Population Control and Family Planning in Bangladesh, the national government discussed initial plans for a Norplant trial.⁶¹ USAID and the Bangladesh government funded the Bangladesh Fertility Research Program (BFRP), a Bangladeshi organization dedicated to national family planning and biomedical research, to conduct a Norplant study.⁶² To

⁶⁰ Saille, *Knowledge as Resistance*, 73-74; "About UBINIG," UBINIG: Policy Research for Alternative Development, May 3, 2010, accessed on September 12, 2018, <http://ubinig.org/index.php/campaigndetails/showArticle/5/12/index.html>.

⁶¹ Farida Akhter, "A Brief Background on Norplant Trial," in *Resisting Norplant: Women's Struggle Against Coercion and Violence*, ed. Farida Akhter (Dhaka: Narigrantha Prabantana, 1995), 16.

⁶² Akhter, "A Brief Background on Norplant Trial," 16 and 20.

obtain participants, BFRP placed an advertisement in the newspapers that called Norplant, “a wonderful innovation of modern science.”⁶³

Farida Akhter, who would go on to become one of UBINIG’s leading members, responded immediately to the BFRP’s call for Norplant test trial volunteers. In a newspaper article, she pointed out that while Norplant had not yet completed its animal trials, it was already available to women living in Chiang Mai, Thailand. Akhter believed that the Population Council’s and the Bangladeshi government’s desire to control the population led them to disregard Norplant’s health risks.⁶⁴ “The Population Council perhaps cannot just wait till the animal test is completed,” she observed, “when they know that the ‘over populated’ Third World countries have millions of women to test the drugs.”⁶⁵ Akhter also questioned why a number of powerful nations, including the U.S., Australia, Canada, Norway, Sweden, and the UK, were funding Bangladesh’s and many other nations’ family planning programs. She was convinced that international donors pressured nations in the Global South to use banned drugs and host new drug trials.⁶⁶ Lastly, Akhter’s article highlighted BFRP’s failure to mention that Norplant was still undergoing testing. She feared that women would be given inaccurate and incomplete information about the drug’s safety. “How long will the women of Bangladesh and other poor countries act as guinea-pigs for testing drugs produced in developed countries?” she asked. “Why do countries like Bangladesh have to solve their population problem risking

⁶³ Akhter, “A Brief Background on Norplant Trial,” 17.

⁶⁴ Farida Akhter, “The First Resistance [*sic*] Against the Advertisement: Norplant Another Pop. Con. Trial?” in *Resisting Norplant: Women’s Struggle Against Coercion and Violence*, ed. Farida Akhter (Dhaka: Narigrantha Prabantana, 1995), 18.

⁶⁵ Akhter, “The First Resistance [*sic*] Against the Advertisement: Norplant Another Pop. Con. Trial?” 18.

⁶⁶ Akhter, “The First Resistance [*sic*] Against the Advertisement: Norplant Another Pop. Con. Trial?” 19.

the lives of their women?”⁶⁷ She called on people to protest. One hundred fifty doctors, healthcare workers, and pharmacists responded by sending a petition to the nation’s Minister of Health and Population Control. Their actions forced the Bangladeshi government to postpone the trial.⁶⁸

In 1985, the BFRP began another Norplant trial in Bangladesh, but due to the upheaval in 1981, this trial was initiated silently.⁶⁹ A UBINIG development worker discovered the trial while researching women’s living conditions in the slums of Dhaka City. The development worker met Jahanara, a pregnant mother of four who was struggling to find a doctor to perform an abortion. The UBINIG researcher took the pregnant mother to a clinic that would only perform an abortion if Jahanara agreed to be permanently sterilized following the procedure.⁷⁰ Because she could not afford to miss the three days of work that was required following a tubal ligation, she refused. After traveling to a hospital in Dhaka, healthcare providers again advised Jahanara to undergo a surgical sterilization. This time, when she refused, they also offered her injectable contraceptive options, including Depo-Provera and Norplant. Jahanara was encouraged to try Norplant because the healthcare counselor claimed that it did not have any side effects. After the counselor had Jahanara sign a consent form with her fingerprint, most likely because she was illiterate, the UBINIG researcher, who had escorted Jahanara to

⁶⁷ Akhter, “The First Resistance [*sic*] Against the Advertisement: Norplant Another Pop. Con. Trial?” 21.

⁶⁸ Farida Akhter, “More Protests,” in *Resisting Norplant: Women’s Struggle Against Coercion and Violence*, ed. Farida Akhter (Dhaka: Narigrantha Prabantana, 1995), 22.

⁶⁹ Farida Akhter, “UBINIG Investigation 1985: UBINIG Discovers Trial on Slum Women,” in *Resisting Norplant: Women’s Struggle Against Coercion and Violence*, ed. Farida Akhter (Dhaka: Narigrantha Prabantana, 1995), 36.

⁷⁰ Akhter, “UBINIG Investigation 1985: UBINIG Discovers Trial on Slum Women,” 36.

the hospital and was aware of Norplant's risks, realized that the provider was not accurately portraying the contraceptive device because they desperately needed trial participants. The researcher convinced Jahanara to leave the clinic before she had Norplant implanted. Reflecting on the events in a subsequent report, the researcher expressed her relief that "Jahanara was saved from Norplant."⁷¹

This event catalyzed UBINIG's second campaign against Norplant. First, UBINIG gathered information about the secretive Norplant trial. The medical center that controlled the trial refused to cooperate with UBINIG, and many of the trial participants did not want to be interviewed, therefore the only way they were able to learn about the testing was by visiting the clinics that were participating in the trial. From their visits, UBINIG learned that the trial participants were mostly women living in slum areas. Many had previously been on the injectable contraceptive, Depo-Provera, and had switched to Norplant because the clinicians conducting the trial inaccurately described the implant as another injection.⁷² They learned that over six hundred women between the ages of eighteen and forty had had Norplant inserted since 1985. Representatives from the clinics said they screened patients for jaundice, hypertension, and diabetes before the insertion and removed the device and brought patients to the hospital if any complications arose. All insertions took place one to seven days following the start of a woman's menstrual period. While they were encouraging all mothers to use Norplant, any woman who breastfed was not able to join the trial because they feared that the progestin could get

⁷¹ Akhter, "UBINIG Investigation 1985: UBINIG Discovers Trial on Slum Women," 37.

⁷² Akhter, "UBINIG Investigation 1985: UBINIG Discovers Trial on Slum Women," 39.

into the breast milk and harm the child. The clinic workers also stated that they gave all participants checkups one, three, and six months following the insertion.⁷³ All of these procedures were standard for an accessibility trial, but UBINIG's researchers would soon learn that these procedures were not properly followed throughout the trial.

Additionally, the clinics, which treated mostly women living in poverty, claimed that they recruited participants by providing women who inquired about contraception with a leaflet discussing Norplant's strengths, risks, and side effects. When UBINIG acquired this leaflet, they found that it included many inaccuracies. For instance, it stated that Norplant was one hundred percent effective, but typically 0.2 to 1.3 percent of women on Norplant became pregnant. While these numbers were low, UBINIG believed that any misrepresentation of Norplant was potentially harmful. The leaflet also asserted that Norplant was easier to use than other forms of birth control. Yet UBINIG pointed out that a trained medical professional was required to have Norplant removed, making it inconvenient for any user who changed their mind.⁷⁴

Most critically, the leaflet did not include any information about Norplant's risks and side effects. During their initial visit, UBINIG discovered that healthcare providers were pushing women seeking family planning options to use Norplant, even offering women a monetary benefit. Additionally, many of the doctors believed that long-acting contraceptives were a better option for their poor patients because they assumed the women could not remember to take a daily birth control pill.⁷⁵ UBINIG's interviews with

⁷³ Akhter, "UBINIG Investigation 1985: UBINIG Discovers Trial on Slum Women," 40-41.

⁷⁴ Akhter, "UBINIG Investigation 1985: UBINIG Discovers Trial on Slum Women," 39.

⁷⁵ Akhter, "UBINIG Investigation 1985: UBINIG Discovers Trial on Slum Women," 37-38 and 41.

doctors revealed that they hoped to limit the Global South's population and saw patients as expendable. One doctor boldly stated, "In order to have a good thing there is always a price to pay. If two or three women die--- what's the problem? The population will be reduced."⁷⁶

In 1986, UBINIG conducted interviews with ten Norplant trial participants in Basila, a village in an outlying district of Dhaka. Akhter later remembered that gaining the trial participants' trust took time because they were afraid of possible repercussions.⁷⁷ Despite this, the interviews revealed a number of ethical violations. For instance, the clinics were not following the trial's standard procedures, especially when vetting and informing the participants. Like most of the women participating in the trial, these ten women were either poor or lower middle-class with little formal education. In fact, only two were literate. While their ages ranged from sixteen to forty-five, all of the interviewees were mothers, and most had more than one child.⁷⁸ The interviews also revealed that four of the women had recently given birth and therefore were breastfeeding while on Norplant. This directly contradicted the medical professionals' claim that women nursing were not allowed to participate in the trial.⁷⁹ When recalling their experiences at the clinics, the interviewees stated that Norplant appealed to them over other contraceptive options partially because healthcare professionals often understated

⁷⁶ Akhter, "UBINIG Investigation 1985: UBINIG Discovers Trial on Slum Women," 41.

⁷⁷ *The Human Laboratory*. Documentary transcript. BBC Horizon, 1995, accessed on December 4, 2018, <http://www.oldthinkernews.com/2010/12/09/human-laboratory-documentary-transcript/>.

⁷⁸ Farida Akhter, "The first 10 slum women to reveal about unethical aspects of Trial," in *Resisting Norplant: Women's Struggle Against Coercion and Violence*, ed. Farida Akhter (Dhaka: Narigrantha Prabantana, 1995), 43.

⁷⁹ Akhter, "The first 10 slum women to reveal about unethical aspects of Trial," 44-45.

the drug's side effects or did not conduct any counseling before the insertion.⁸⁰ Furthermore, none of the women interviewed read the leaflet discussing Norplant's positive aspects and possible risks and side effects before the insertion.⁸¹ Many had previously used Depo-Provera, the injectable contraceptive, but it was often difficult to get to the health clinics every three months for the shots. Therefore, clinic personnel encouraged them to switch to Norplant because it lasted five years and required fewer clinic visits.⁸² One of the most shocking revelations was that the interviewees were not aware that they were participating in a testing trial. They were "guinea pigs of medical research," UBINIG concluded.⁸³ Only one woman knew the name "Norplant," the others only knew of the drug as the "5-Year Needle."⁸⁴

During the interviews, women spoke about how Norplant affected their health. Following the insertion, all ten women experienced Norplant related side effects. The most common was amenorrhea, or the loss of menstruation, followed by irregular bleeding. A few women experienced less common side effects such as vertigo, a burning sensation in hands and feet, body aches, tiredness, and leukorrhoea, or a white or yellowish vaginal discharge.⁸⁵

UBINIG observed that the professionals conducting the trial were not properly addressing the patients' side effects. While all of the women dealt with uncomfortable side effects, only three had the device removed early, and only after they persisted by

⁸⁰ Akhter, "The first 10 slum women to reveal about unethical aspects of Trial," 48

⁸¹ Akhter, "The first 10 slum women to reveal about unethical aspects of Trial," 49.

⁸² Akhter, "The first 10 slum women to reveal about unethical aspects of Trial," 47.

⁸³ Akhter, "The first 10 slum women to reveal about unethical aspects of Trial," 48.

⁸⁴ Akhter, "The first 10 slum women to reveal about unethical aspects of Trial," 48.

⁸⁵ Akhter, "The first 10 slum women to reveal about unethical aspects of Trial," 45-46.

visiting the medical center two or three times. One woman commented on this experience in her interview, “When I had problems and could not bear it any longer, I went to the center, but they refused to take it out. They said, ‘Why did you take it, then?’... I had to lie and said that my two children had drowned in the river and my husband wanted another child. This time they took it out.”⁸⁶

In 1986, UBINIG began to publicize its findings. At a press conference held to protest the Norplant test trials in Bangladesh, the organization called on the Bangladeshi government to end the “unethical research.”⁸⁷ Although the media supported UBINIG’s claims that Bangladeshi women were being treated as ““animals of biomedical experimentation,”” neither the BFRP nor the government responded to the allegations.⁸⁸ Deeming this silence “a gross violation of human rights,” UBINIG reached out to other women’s health activists in Bangladesh and the rest of the world.⁸⁹

One of the first organizations UBINIG partnered with was the Feminist International Network of Resistance to Reproductive and Genetic Engineering (FINRRAGE); an organized alliance formed at the 1984 at the International Women’s Conference in Sweden.⁹⁰ The organization was mostly made up of Anglo-European feminists who opposed population control activists in the “global South.”⁹¹ In 1989, UBINIG and FINRRAGE organized a conference in Comilla, Bangladesh focused on

⁸⁶ Akhter, “The first 10 slum women to reveal about unethical aspects of Trial,” 51.

⁸⁷ Farida Akhter, “Dissemination at the national and international level,” in *Resisting Norplant: Women’s Struggle Against Coercion and Violence*, ed. Farida Akhter (Dhaka: Narigrantha Prabartana, 1995), 65.

⁸⁸ Akhter, “Dissemination at the national and international level,” 65.

⁸⁹ Akhter, “Dissemination at the national and international level,” 66.

⁹⁰ Saille, *Knowledge as Resistance*, 80-81.

⁹¹ Saille, *Knowledge as Resistance*, 2.

women's health, genetic engineering, and reproductive technologies.⁹² One hundred forty-five women from thirty-four countries attended the conference, and Norplant was a leading topic discussed.⁹³ The conversations around Norplant demonstrated that the ethical violations committed against women during those trials were remarkably similar to the transgressions in Brazil, India, and Indonesia.⁹⁴ Leading activists at the conference issued a statement against Norplant, IUDs, and injectable contraceptives.⁹⁵ In March of the same year, UBINIG joined up with other women's non-governmental groups in Sri Lanka, Pakistan, India, and Nepal to form The Resistance Network Against Abuse of Contraceptives on Women's Bodies. This coalition held protests and appealed to Bangladesh's Health Minister to end the use of Norplant and other controversial contraceptives.⁹⁶

As UBINIG began collaborating with other Bangladeshi feminists and women's health organizations to combat the coercive use of Norplant, other women's activists across the globe also took up the fight. For instance, Soheir Morsy investigated and exposed ethical violations during Egypt's large Norplant trial. An Egyptian born feminist who moved to the U.S. with her family as a teenager, Morsy possessed a complex understanding of gender norms across cultures. "My sensitivity to gender differentiation

⁹² Farida Akhter, "FINRRAGE-UBINIG Conference, 1989 and the Declaration of Comilla," in *Resisting Norplant: Women's Struggle Against Coercion and Violence*, ed. Farida Akhter (Dhaka: Narigrantha Prabantana, 1995), 67.

⁹³ Saille, *Knowledge as Resistance*, 109.

⁹⁴ Akhter, "FINRRAGE-UBINIG Conference, 1989 and the Declaration of Comilla," 67.

⁹⁵ Akhter, "FINRRAGE-UBINIG Conference, 1989 and the Declaration of Comilla," 68.

⁹⁶ Farida Akhter, "Resistance [*sic*] Network Formed," in *Resisting Norplant: Women's Struggle Against Coercion and Violence*, ed. Farida Akhter (Dhaka: Narigrantha Prabantana, 1995), 69-70; "About UBINIG," 2010, accessed on September 12, 2018,

<http://ubinig.org/index.php/campaigndetails/showAerticle/5/12/index.html>.

did not develop until my arrival in the United States,” she recalled. “Stereotypical characterizations of Arab women put me on the defensive and forced me to research the subject in order to present coherent arguments in defense.”⁹⁷ These experiences led her to study women’s health in Egypt, with particular interest in the peasant woman’s experience.⁹⁸

During her fieldwork, as an Arabic-speaking Egyptian woman, Morsy had “privileged access to female spheres of activities,” and many of the women she interviewed were pleased to see her interest in their lives, culture, and well-being.⁹⁹ She also utilized her position as a mother to gain other mothers’ trust and access to local women’s birth and postpartum rituals. On the other hand, Morsy employed her upper-class position and her high level of education, a Ph.D. in medical anthropology from Michigan State University, to work in research spaces customarily designated for men in Egypt. Her education and upper-class origins led working-class men to interact with her more openly. They saw her as “a doctor-in-the-making who could discuss a variety of topics without shame.”¹⁰⁰ These multiple identities aided Morsy in her investigation of Egypt’s Norplant trials.

In the 1980s, Morsy investigated the International Islamic Center for Population Studies and Research at Al Azhar University’s and Alexandria University’s decision to

⁹⁷ Soraya Altorki and Camillia Fawzi El-Solh, ed., *Arab Women in the Field: Studying Your Own Society*, (Syracuse: Syracuse University Press, 1988), 73.

⁹⁸ Altorki et al., *Arab Women in the Field: Studying Your Own Society*, 75-76.

⁹⁹ Altorki et al., *Arab Women in the Field: Studying Your Own Society*, 76-78.

¹⁰⁰ Altorki et al., *Arab Women in the Field: Studying Your Own Society*, 80-81.

conduct a collaborative Norplant acceptability trial.¹⁰¹ Egyptian researchers proposed a three-year study that included about a thousand women living in rural villages and Cairo. Each university's faculty would conduct a portion of the study; servicing about 250 Norplant implants each.¹⁰² In her investigation of the large Egyptian trials, Morsy examined the nation's history of population control policy and tracked which nations and international institutions funded Egypt's family planning programs. She found that during the second half of the twentieth century, the international community, and particularly the U.S., pressured Egypt to adopt population control measures. In 1965, the Egyptian government introduced the nation's first family planning programs, but their effects on the nation's population growth were limited.¹⁰³ Population control advocates believed that Egypt's population continued to grow because healthcare professionals were not administering the oral contraceptive pill efficiently and that many women chose to stop using it.¹⁰⁴ The international community quickly became interested in Egypt's inability to control its growing numbers. The U.S. government provided Egypt with generous funding for birth control both directly through USAID and indirectly, through organizations like the International Planned Parenthood Federation. In fact, between 1975 and 1983, over half of the U.S.'s allocations to Egypt's health and development were

¹⁰¹ R. Zaher, "A Proposal to the Rockefeller Foundation to Support a Multicenter Study for the Long Acting Contraceptive Norplant in Egypt," 1980, box RR3260, 812 P University of Alexandria-Contraceptive Implant, 1980-86, RFR, RAC.

¹⁰² Document from Population and Health (P&H) - Population Science (PS) Contraceptive Technology to the University of Alexandria, January 7, 1981, 4, box RR3260, 812 P University of Alexandria-Contraceptive Implant, 1980-86, RFR, RAC.

¹⁰³ Document from Population and Health (P&H) - Population Science (PS) Contraceptive Technology to the University of Alexandria, January 7, 1981, 2.

¹⁰⁴ Document from Population and Health (P&H) - Population Science (PS) Contraceptive Technology to the University of Alexandria, January 7, 1981, 2-3.

appropriated to population control programs. Responding to this pressure, the state-regulated press used cartoons to single out women, and their ability to procreate, as a hindrance to the development of the nation.¹⁰⁵ In the early 1980s, Egypt's Supreme Council for Family Planning urged universities to organize a field study of Norplant because the government hoped that access to the contraceptive implant would be a safe way of preventing pregnancies throughout the country.¹⁰⁶

Morsy tracked the Egyptian press's coverage of Norplant and the impending drug trials. She pointed out that the press heavily advocated for Norplant, considering it a major technological advancement and often referring to it as "the magic capsule."¹⁰⁷ Additionally, the media either downplayed or completely ignored questions about Norplant's safety, side effects, and the possibility of coercion. To support their claims, the press cited only Norplant advocates, including Dr. Mamdouth M. Shaaban, a professor at Assiut University within the Department of Obstetrics and Gynecology, who strongly endorsed the contraceptive device and the Egyptian Ministry of Health, which classified Norplant as a safe contraceptive option.¹⁰⁸ Without taking into account the contrast in healthcare access between women in western nations and women in poor communities in Egypt, the press extolled progressive nations like Finland, which had already approved Norplant for use, and encouraged Egyptian women to emulate

¹⁰⁵ Soheir A. Morsy, "Bodies of choice: Norplant experimental trials on Egyptian women," in *Norplant: Under Her Skin*, ed. Barbara Mintzes, Anita Hardon, and Jannemieke Hanhart (Delft: Eburon, 1993), 95.

¹⁰⁶ Morsy, "Bodies of choice: Norplant experimental trials on Egyptian women," 92; Document from Population and Health (P&H) - Population Science (PS) Contraceptive Technology to the University of Alexandria, January 7, 1981, 3.

¹⁰⁷ Morsy, "Bodies of choice: Norplant experimental trials on Egyptian women," 95.

¹⁰⁸ Morsy, "Bodies of choice: Norplant experimental trials on Egyptian women," 93.

“‘international’ contraception trends.”¹⁰⁹ Furthermore, Morsy found that the Egyptian press ignored the disproportionate power dynamic between the family planning physicians and trial participants and how it could potentially lead to reproductive abuses. Anthropological studies showed that Egyptian public health clinics had historically mistreated rural women, therefore, even before the trial began, Morsy believed that healthcare practitioners would likely prescribe Norplant inappropriately.¹¹⁰

A number of Egyptian medical professionals and scientists criticized the use of Norplant as a way to curb their nation’s population growth. In fact, researchers from the Alexandria University Faculty of Medicine said they were not convinced of the method’s safety.¹¹¹ They felt that it could be a particularly poor contraceptive choice for women living in rural Egypt because a shift in menstruation could be especially problematic for their day-to-day lives.¹¹² Moreover, many Egyptian physicians pointed out that even though the U.S. had researched and developed Norplant, the clinical trials were predominantly in Global South. The physicians believed the Population Council had outsourced the trials because of their concerns over Norplant’s safety and their unwillingness to risk the health of U.S. citizens. They did not want Egyptian women to be treated like experimental specimens.¹¹³

As a professional anthropologist, Morsy used her fieldwork training when she interviewed sixty trial participants and several members of the clinical staff at Assiut

¹⁰⁹ Morsy, “Bodies of choice: Norplant experimental trials on Egyptian women,” 96.

¹¹⁰ Morsy, “Bodies of choice: Norplant experimental trials on Egyptian women,” 97, 103-104.

¹¹¹ Morsy, “Bodies of choice: Norplant experimental trials on Egyptian women,” 93.

¹¹² Morsy, “Bodies of choice: Norplant experimental trials on Egyptian women,” 93.

¹¹³ Morsy, “Bodies of choice: Norplant experimental trials on Egyptian women,” 94.

University. She examined both the pre-insertion procedures and the ways Norplant impacted women's health.¹¹⁴ Her conversations with Assiut personnel demonstrated that they were well versed in the drug's risks and contraindications. The medical staff believed that because their patients were "'uneducated' or as one physician put it... 'very limited'" they would not be able to understand how the contraceptive technology worked.¹¹⁵ Moreover, a Norplant researcher told Morsy that the contraceptive device "'may suit very much our rural women who are careless in taking the daily pill.'"¹¹⁶ Although physicians were required to prescribe Norplant according to scientific-based reasoning, Morsy concluded that they were applying class-based stereotypes to their patients in determining their suitability for the drug.

In Morsy's interviews with Norplant patients, she asked questions about their experiences at family planning clinics, how they heard about Norplant, why they decided to use the contraceptive device, and the role their husbands played in the process. Her interviews also covered Norplant's health effects, with particular focus on altered menstruation cycles, the impacts on their children's health, especially if they were nursing, the effects of Norplant on their sexual relationships, and their decisions to either continue using the device or to remove it before the five year period. As an anthropologist trained to conduct professional research, Morsy was perceptive of her subject's body language and non-verbal communication. In addition, she used her personal connection to Egyptian women to gain her interviewees' confidence, especially

¹¹⁴ Morsy, "Bodies of choice: Norplant experimental trials on Egyptian women," 98.

¹¹⁵ Morsy, "Bodies of choice: Norplant experimental trials on Egyptian women," 99.

¹¹⁶ Morsy, "Bodies of choice: Norplant experimental trials on Egyptian women," 104.

when discussing intimate personal details related to their bodies and reproduction. During the interview process, Morsy observed and considered verbal, nonverbal, and surreptitious responses. She described this technique in her article, “Others replied secretly at opportune moments, for example when they hugged me or shook my hand at the end of the meeting.”¹¹⁷

Just as she predicted, Morsy’s interviews with trial participants demonstrated that the Norplant testing trials were not following proper procedure, and in the process, women were abused. Morsy noticed that the Egyptian press’s strong promotion of Norplant greatly influenced participants’ early perceptions of the contraceptive device. Others became interested in Norplant after another woman, who claimed to have used Norplant for a number of years, encouraged them to try it. Morsy later learned that clinics had “allegedly paid” these recruiters to promote Norplant to patients.¹¹⁸ Similar to patients in the Bangladesh trials, Morsy found Egyptian women suffering from a range of side effects, including irregular menstruation, excessive bleeding and amenorrhoea, depression, weight loss, fatigue, headaches, and dizziness.¹¹⁹

Morsy documented the stress women experienced when doctors refused to remove the drug early. One woman, who Morsy called Amira, never experienced a normal menstrual cycle during the four years she was on Norplant. She initially lost her period and later suffered from hemorrhaging for several weeks at a time. In addition, she was often afflicted with dizziness, headaches, and fatigue. Amira asked her physician to

¹¹⁷ Morsy, “Bodies of choice: Norplant experimental trials on Egyptian women,” 99.

¹¹⁸ Morsy, “Bodies of choice: Norplant experimental trials on Egyptian women,” 99, 102.

¹¹⁹ Morsy, “Bodies of choice: Norplant experimental trials on Egyptian women,” 100-102.

remove her Norplant on several occasions, but “the doctor simply refused.”¹²⁰ Eventually, Amira sought help from another doctor outside of the family planning clinic who agreed to remove the implant, but he charged her a fee and said he did it only as a favor to Amira’s husband.¹²¹

Morsy published her research on Norplant and the Egyptian testing trials as a chapter in the book, *Norplant: Under Her Skin*. In 1989, the Women and Pharmaceuticals Project, a collaboration between the Dutch NGO, WEMOS and Health and Action International, sponsored a meeting at the European Women and Health Conference in Madrid. The meeting, which was attended by women's activists from Bangladesh, Brazil, India, Indonesia, Thailand, Denmark, Finland, and the Netherlands, focused mainly on new contraceptive technologies.¹²² Due to the dramatic increases in Norplant use in the late 1980s, much of the conversation revolved around the new contraceptive device. Activists who participated in movements against Norplant that had exposed the ethical violations during the drug’s test trial informed others of Norplant’s dangerous side effects and the threat of coercion. The conversations led to more questions about Norplant’s risks as well as discussions of issues such as the prescribing process, how menstruation disturbances affected women’s lives, and how Norplant affected women’s reproductive

¹²⁰ Morsy, “Bodies of choice: Norplant experimental trials on Egyptian women,” 101.

¹²¹ Morsy, “Bodies of choice: Norplant experimental trials on Egyptian women,” 101.

¹²² Barbara Mintzes, Anita Hardon, and Jannemieke, ed., *Norplant: Under Her Skin*, (Delft: Eburon, 1993); Anita Hardon, “From Subaltern Alignment to Constructive Mediation: Modes of Feminist Engagement in the Design of Reproductive Technologies,” in *Feminist Technology*, ed. Linda L. Layne, Sharra L. Vostral, and Kate Boyer, (Urbana: University of Illinois Press, 2010), 158.

rights.¹²³ In order to answer the many questions that arose, the Women and Pharmaceuticals Project agreed to fund three field studies in Indonesia, Finland, and Brazil between 1989 and 1991. In 1993, each study, including Morsy's investigation of Egypt, became chapters in *Norplant: Under Her Skin*. The Women and Pharmaceuticals Project, which was created to research, inform, lobby, and work with other international women's health organizations to improve reproductive drugs and healthcare, published the book. The goal was to circulate information about Norplant, the ethical violations committed during its testing trials, and the feminists working to end the coercive use of the implantable contraceptive globally.¹²⁴

Similar to Morsy's investigation of Egypt's Norplant trials, *Norplant: Under her Skin's* other chapters reveal reproductive atrocities in places like Indonesia, Thailand, and Brazil. These additional studies confirmed that ethical violations and coercive prescribing practices were common and that the testing trials were mostly targeting poor women living in the Global South. Poor prescribing practices were especially problematic in Indonesia where Norplant was first offered in 1987.¹²⁵ At the time, population control personnel recruited trial participants using a method sometimes referred to as "Norplant safaris."¹²⁶ During these safaris, family planning staff used military troops and

¹²³ Mintzes et al., *Norplant: Under Her Skin*, 1; Anita Hardon, "Negotiating safety and acceptability of new contraceptive technologies," *Medische Anthropologie* 16:1 (2014): 110, accessed on September 26, 2018, <http://www.medanthrotheory.org/site/assets/files/8728/negotiating.pdf>.

¹²⁴ Mintzes et al., *Norplant: Under Her Skin*, 1; Hardon, "Negotiating safety and acceptability of new contraceptive technologies," 110.

¹²⁵ Frost et al., *Access*, 124. This source states that Norplant was first introduced in 1986.

¹²⁶ James G. Connell, III, "Norplant and the New Paradigm of International Population Policy," *Wm. & Mary J. Woman & L.* 2:1 (1995): 103, accessed on May 2, 2018, <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1285&context=wmjowl>.

community leaders to persuade women to use the birth control device. One woman interviewed recalled a community leader threatening her with police force if she chose not to use Norplant. Trial recruiters provided women with limited verbal information and no written resources about the drug, its side effects, and risks. In addition, they told patients that Norplant was the safest form of contraception available to them (when in fact the oral contraceptive pill and intrauterine devices (IUDs) were established as safer options).¹²⁷ These coercive practices resulted in more Norplant insertions in Indonesia than any other nation. By 1994, 1.8 million women, 9.5 percent of the country's contraceptive users, were implanted with Norplant.¹²⁸

Norplant: Under Her Skin's chapter examining Indonesia focused heavily on Norplant's impact on Indonesian women's ability to practice their religious beliefs after the contraceptive device was inserted. Irregular bleeding was particularly taxing on women who observed traditional Islamic practices related to womanhood and fertility because they were unable to pray, fast, or enter a mosque when they were menstruating. In addition, many women were also restricted from having sex or washing their hair while they were bleeding.¹²⁹ Feminists pointed out that these traditions made Norplant a poor choice of birth control for any practicing Muslims.¹³⁰

¹²⁷ Connell "Norplant and the New Paradigm of International Population Policy," 103. Andrew A. Fisher, Joedo Prihartono, Jayanti Tuladhar and R. Hasan M. Hoesni, "An Assessment of Norplant Removal in Indonesia," *Studies in Family Planning* 28:4 (December 1997); Jannemieke Hanhart, "Women's views on Norplant: a study from Lombok, Indonesia," in *Norplant: Under Her Skin*, ed. Barbara Mintzes, Anita Hardon, and Jannemieke Hanhart, (Delft: Eburon, 1993), 39 and 44.

¹²⁸ Hanhart, "Women's views on Norplant: a study from Lombok, Indonesia," 44; Frost et al., *Access*, 125.

¹²⁹ Hanhart, "Women's views on Norplant: a study from Lombok, Indonesia," 33.

¹³⁰ Hanhart, "Women's views on Norplant: a study from Lombok, Indonesia," 43.

Additionally, the book's chapter on Brazil demonstrated how feminist campaigns against Norplant were shifting women's, doctors', and governments' perceptions of Norplant. The Brazilian trial's ethical violations were proportional to other studies. They included inadequate counseling prior to insertion, poor medical follow-up, and medical professionals often refused to remove patient's Norplant implants even after they expressed distress.¹³¹ But unlike other nations, the strong feminist response in Brazil was taken seriously, leading the nation's Human Reproductive Rights Studies Commission of the Ministry of Health to ask women activists for assistance and guidance regarding the Norplant trials.¹³² Based on the feminist's exposure of forced sterilizations, in 1986, the Brazilian government chose to order a police investigation and a suspension of the Norplant trials.¹³³

The feminist activists contributing to *Norplant: Under Her Skin* were well-educated activists participating in the global women's health movement and mobilizing against coercive population policies. They hoped their findings would create dialogue amongst other women's health activists, governmental institutions, the global community, and the Population Council. Anita Hardon, one of the book's editors and a medical anthropologist, later stated in an article that their intent was not to advocate for the ban of Norplant, but to help the World Health Organization (WHO) and the

¹³¹ Giselle Garcia and Solange Dacach, "Norplant- Five years Later [Brazil]," in *Norplant: Under Her Skin*, ed. Barbara Mintzes, Anita Hardon, and Jannemieke, (Delft: Eburon, 1993), 71-74.

¹³² Saille, *Knowledge as Resistance*, 141-142; Lima Pimentel et al., "The brief life of Norplant in Brazil: controversies and assemblages between science, society and State," 48. In 1985, Ana Regina Gomes dos Reis, who as a member of the government advocated for better women's health in Brazil, created the Human Reproductive Rights Studies Commission of the Ministry of Health.

¹³³ Lima Pimentel et al., "The brief life of Norplant in Brazil: controversies and assemblages between science, society and State," 48.

Population Council to “formulate guidelines” for Norplant’s use.¹³⁴ Hardon and her fellow feminist contributors believed that if trained medical professionals properly administered Norplant, it had the potential to be a good birth control option.¹³⁵

The studies presented in *Norplant: Under Her Skin* led some scientists and doctors to re-evaluate Norplant’s safety. A number of medical and scientific publications reviewed the work. While many reviewers strongly agreed with the book’s findings and praised the contributors’ efforts to expose Norplant link to reproductive abuse targeted at poor and minority populations, some also warned the reader that *Norplant: Under Her Skin* had an “overtly feminist” tone. Overall, the reviewers urged their readers, many of which were medical professionals, to consult the text before prescribing Norplant.¹³⁶ In addition, Hardon attested that the book compelled many scientists devoted to the development of contraceptive technologies to engage with the women’s health movement.¹³⁷

Conversely, the Population Council strongly objected to the book's central claims. The woman responsible for Norplant’s introduction program, Karen Beattie, called the book’s analysis “skewed” and challenged the book’s co-authors’ knowledge of clinical research and practice. Also, in 1993, the Population Council published its own pamphlet

¹³⁴ Hardon, "Negotiating safety and acceptability of new contraceptive technologies," 112.

¹³⁵ Hardon, "Negotiating safety and acceptability of new contraceptive technologies," 16.

¹³⁶ Sue Armstrong, “Review: Our Reproduction, Ourselves,” review of *Norplant: Under Her Skin*, ed. Barbara Mintzes, Anita Hardon, and Jannemieke Hanhart, *New Scientist*, October 16, 1993, accessed on July 3, 2019, <https://www.newscientist.com/article/mg14018954-400-review-our-reproduction-ourselves/>; Jeanne Bereiter, “Controversial Contraception,” review of *Norplant: Under Her Skin*, edited by Barbara Mintzes, Anita Hardon, and Jannemieke Hanhart, *Canadian Family Physician*, Vol. 41, November 1995, 1967-1969, accessed on July 3, 2019,

<https://europepmc.org/backend/ptpmcrender.fcgi?accid=PMC2146727&blobtype=pdf>.

¹³⁷ Hardon, "Negotiating safety and acceptability of new contraceptive technologies," 124.

titled *Introducing Norplant in Developing Countries*. The publication detailed how the drug was being implemented throughout the world. After reviewing the booklet, women who had contributed to *Norplant: Under Her Skin* argued that the Population Council had made false accusations about the drug's safety and left out crucial information about its side effects. For instance, the booklet claimed that the birth control device would not harm a nursing mother's child, and it failed to include irregular bleeding on its list of most common side effects. Feminists argued that there was not enough definitive scientific evidence to determine the drug's impact on nursing mother's children. Additionally, when questioned about their decision to omit irregular bleeding from the list of common side effects, the Population Council stated that they did not believe that "intermenstrual bleeding," or spotting, impacted a woman's daily routine like a menstruation could, therefore they did not consider it to be a side effect. This justification infuriated feminists because they believed irregular bleedings could harmfully impact a woman's quality of life.¹³⁸

The feminist contributors who studied Norplant's testing trials hoped *Norplant: Under Her Skin* would help women to combat oppressive policies and campaign against future misuses of Norplant. Because feminists believed that traditional medical trials distorted their evidence to benefit Norplant's developer, activists produced *Norplant: Under Her Skin* to uncover women's true experiences with the drug. The researchers

¹³⁸ Hardon, "From Subaltern Alignment to Constructive Mediation: Modes of Feminist Engagement in the Design of Reproductive Technologies," 159; Hardon, "Negotiating safety and acceptability of new contraceptive technologies," 114.

sought to accurately represent the Norplant “user’s perspective.”¹³⁹ This woman centered approach to medical research was innovative, especially when compared to the Population Council funded trials. Feminists and women’s health activists throughout the world embraced the book, and in the early 1990s, it became an important source for U.S. based feminists as they built campaigns against Norplant. Grassroots organizations, like the Native American Women’s Health and Education Resource Center (NAWHERC) used *Norplant: Under Her Skin* to better understand the risks associated with the contraceptive device, while also learning about the other incidence of coercive practices targeted at vulnerable populations.¹⁴⁰ Despite these early feminist efforts to stop governments’ and international organizations’ from using Norplant to infringe upon women’s reproductive rights, these oppressive practices continued to impact poor and minority women living in the U.S.

¹³⁹ Mintzes et al., *Norplant: Under Her Skin*, 1.

¹⁴⁰ Lin Krust and Charon Asetoyer, *A Study of the Use of Depo-Provera and Norplant by the Indian Health Services (Revised)*, (Lake Andes: Native American Women’s Health Education Resources Center: A Project of the Native American Community Board, July 1993); Lorretta Ross interview by Justina Licata, Skype, July 9, 2018.

CHAPTER III

NORPLANT AND SOCIAL POLICY IN THE 1990s

On December 10, 1990, the U.S. Food and Drug Administration (FDA) approved Norplant for public use. Initially, many U.S. doctors and longstanding feminist groups like the National Organization for Women (NOW) and Planned Parenthood hailed it as the greatest advancement in contraceptive technology since the 1960s when the birth control pill first became available to the public. Dr. Daniel Callahan, director of the Hastings Center, a research institute, called Norplant “the dream method that people who work on birth control have looked for for decades.” Because of Norplant’s long-term effectiveness, many women saw it as a significant step forward in their reproductive freedom.

Two days after the FDA’s approval, the *Philadelphia Inquirer*’s deputy editorial-page editor, Donald Kimelman, published a controversial editorial titled, “Poverty and Norplant: Can Contraception Reduce the Underclass?” Kimelman, who began writing for the *Philadelphia Inquirer* in 1979, frequently presented commentary on social policies affecting people living in urban centers. In “Poverty and Norplant,” he suggested that Norplant could help address the growing rates of Black poverty. He claimed that about half of the nation’s African American children were living in poverty and that researchers suspected this number would increase. While stating that women should not be forced to

use Norplant, he proposed using it to curb Black poverty and teenage pregnancy by offering women on welfare monetary incentives to voluntarily use the device.¹

Because of its racist and eugenic connotations, Kimelman's article received national media attention. It infuriated many feminists, particularly African American, Native, Latina, and Asian and Pacific Islander women, who spoke out against the editorial and drew attention to the longstanding reproductive oppression of poor and minority women.² In addition, the editorial upset Norplant's scientific developer, Sheldon Segal, who wrote about his disapproval in an opinion piece printed in the *New York Times* on January 6, 1991. In the article, Segal stated that he was "totally and unalterably oppose to the use of Norplant for any coercive or involuntary purpose."³ Instead, Segal argued fervently that he and his team created Norplant to empower women and provide them with greater reproductive freedom. Ultimately, the backlash forced the *Inquirer* to print an apology that described the piece as "misguided and wrongheaded."⁴

The controversy over the *Inquirer* piece was not an isolated incident. Norplant was part of a wave of controversial social policies in the 1990s that promoted the use of

¹ Betsy Hartmann and Marlene Gerber Fried, "Norplant: Notes of Caution on New Contraceptive: Letter to the Editor," *Boston Globe*, January 1991, box 197 folder 15: Cover letters..., 1993-2005 Norplant, NWHNR, SSC; Philip J. Hiltz, "U.S. Approves Contraceptive Planted in Skin," *New York Times*, December 11, 1990, A1; Dorothy Roberts, *Killing the Black Body: Race, Reproduction, and the Meaning of Liberty*, (New York: Pantheon Books: A Division of Random House, Inc., 1997), 106; "'What distinguishes MASS is not great design, though its designs are quite wonderful. What distinguishes MASS is its mission, above all, to produce social benefit.' Donald Kimelman" *MASS Design*, accessed on November 2, 2019, <https://massdesigngroup.org/board/donald-kimelman>; Donald Kimelman, "Poverty and Norplant: Can Contraception Reduce the Underclass?" *Philadelphia Inquirer*, Dec. 12, 1990, A18.

² Roberts, *Killing the Black Body*, 108.

³ Sheldon Segal, "Norplant Developed for All Women, Not Just the Well-To-Do," *New York Times*, January 6, 1991, E18.

⁴ "An apology: The Editorial on 'Norplant and Poverty' was Misguided and Wrongheaded" *Philadelphia Inquirer*, December 23, 1990, C4.

neo-eugenic practices to attempt to curb the reproduction of poor and minority women across the U.S.⁵ Federal, state, and local governments along with an organization called Children Requiring a Caring Kcommunity (CRACK) tried to force poor and minority women to use Norplant. These efforts were part in parcel of the War on Drugs, rising rates of mass incarceration, and attacks on welfare recipients. Further, as politicians sought to limit poor and minority women's childbearing, they also vehemently opposed abortions. While historians have traced the effects of late-twentieth century welfare, drug, and policing policies on people of color, Norplant's history demonstrates that the backlash was even more pervasive than most have recognized and that it included policies specifically intended to curb poor women's childbearing.⁶ Women and men

⁵ Rebecca M. Kluchin, *Fit to be Tied: Sterilization and Reproductive Rights in America, 1950-1980*, (New Brunswick: Rutgers University Press, 2009), 3. Here, I am employing historian, Rebecca Kluchin, definition of neo-eugenics. She defines neo-eugenics as the continued legacies of eugenics in the post-baby boomer era. Although neo-eugenics was not a formal movement, many groups including scientists, physicians, and politicians adhered to its goals. The main difference between eugenicists and neo-eugenicists were the individuals targeted for sterilization. For example, prior to the Second World War, eugenicists focus their attention on eastern and southern European immigrants, while neo-eugenicists placed their attention on African Americans, Native Americans, and people of Hispanic descent. Kluchin asserts that this shift was directly connected to who white's perceived as a threat.

⁶ Marisa Chappell, *The War on Welfare: Family, Poverty, and Politics in Modern America* (Philadelphia: University of Pennsylvania Press, 2010), 242; Edward D. Berkowitz, *America's Welfare State From Roosevelt to Reagan* (Baltimore: The John Hopkins University Press, 1991); Lisa Marie Cacho, *Social Death: Radicalization Rightlessness and the Criminalization of the Unprotected* (New York: New York University Press, 2012); Linda Gordon, *Pitied but not Entitled: Single Mothers and the History of Welfare* (New York: Free Press, 1994); Alice Kessler-Harris, *In Pursuit of Equity: Women, Men, and the Quest for Economic Citizenship in 20th-Century America* (New York: Oxford University Press, 2001); Julilly Kohler-Hausmann, "Welfare Crises, Penal Solutions, and the Origins of the 'Welfare Queen,'" *Journal of Urban History* 41 (2015); Pamela Loprest, Stefanie Schmidt, Ann Dryden Witte, "Welfare Reform under PRWORA: Aid to Children with Working Families," *Tax Policy and the Economy* 14 (2000); Yascha Mounk, *The Age of Responsibility: Luck, Choice, and the Welfare State*, (Cambridge: Harvard University Press, 2017); Brenda Stevenson, *The Contested Murder of Latasha Harlins: Justice, Gender, and the Origins of the LA Riot*, (Oxford: Oxford University Press, 2013); Elizabeth Hinton, *From the War on Poverty to the War on Crime: The Making of Mass Incarceration in America* (Cambridge: Harvard University Press, 2016).

experienced the restrictive and punitive social policies passed in the 1990s in different ways.

When Norplant was introduced to the American market in 1990, social policies were already making life much more difficult for poor people and people of color. For decades, political leaders blamed them for economic downturns and criminal activity, particularly in the nation's large cities. In the 1980s, Ronald Reagan's administration passed a series of policies that criminalized urban spaces and targeted people of color. These efforts also included aggressive law enforcement strategies targeted at petty drug offenses and harsh minimum sentencing laws on crack cocaine. In the mid-1990s, the sentencing disparity between crack cocaine, which was used primarily by poor people, and powder cocaine, which middle and upper-class white people tended to use, was staggering. The mandatory minimum for possession of five grams of crack cocaine was five years, but to receive the same amount of prison time, a person had to be caught with five hundred grams of powder cocaine.⁷ As a result of Reagan's aggressive War on Drugs, the term used to define his administration's politically charged anti-drug

⁷ Charisse Jones, "Crack and Punishment: Is Race the Issue?" *New York Times*, October 28, 1995, accessed on November 2, 2019, <https://www.nytimes.com/1995/10/28/us/crack-and-punishment-is-race-the-issue.html>.

campaign, incarceration rates increased at a record pace.⁸ In 1970, police made about 320,000 adult drug-related arrests; by 2000, that number rose to well over one million.⁹

Several violent incidents including the Rodney King beating, Latasha Harlins's murder, and the L.A. Riots illustrated the racial tensions felt in the U.S. in the early 1990s. In March 1991, four white Los Angeles Police Department (LAPD) officers brutally beat Rodney King, a twenty-five year old Black man, after a short car chase.¹⁰ During the beating, the officers struck King over fifty times with their batons.¹¹ His wounds were so severe the Los Angeles hospital was forced to send King to their trauma center for treatment. Without the LAPD's knowledge, an amateur cameraman captured the incident. After the cameraman sold the footage to the media, both local and national news televised the video of the beating. The media attention led to a nationwide

⁸ Elizabeth Hinton, "Why We Should Consider the War on Crime," *Time Magazine*, August 17, 2014 accessed on October 14, 2019, <https://time.com/3746059/war-on-crime-history/>; Hinton, *From the War on Poverty to the War on Crime*, 317. In 1965, President Lyndon B. Johnson's call for a "War on Crime" marshaled in a new phase of law enforcement in the U.S. As the New Right grew in popularity, more Americans supported the government's aggressive approach to crime, ultimately allowing lawmakers at the federal and state levels to enact a slew of repressive policies that criminalized urban spaces and targeted people of color. For example, in 1986, as part of President Ronald Reagan's War on Drugs and "Just Say No" initiatives, his administration passed the Anti-Drug Abuse Act (also known as the "Drug Free America Act"). This act allocated three and a half billion dollars to criminal justice expenditures tripling the funds for drug enforcement. Much of these resources were used to militarize domestic law enforcement and to buy helicopters, airplanes, and intelligence gathering enterprises.

⁹ Heather Ann Thompson, "Why Mass Incarceration Matters: Rethinking Crisis, Decline, and Transformation in Postwar American History," *Journal of American History* 97:3 (December 2010): 709.

¹⁰ John Fiske, *Media Matters: Race and Gender in U.S. Politics*, (Minneapolis: University of Minnesota Press, 1996), 159-169; Andrea Ford and Tracy Wilkinson, "Grocer is Convicted in Teen Killing: Verdict: Jury Finds Korean Woman Guilty of Voluntary Manslaughter of a Black Girl," *LA Times*, October 12, 1991, accessed on March 20, 2017, http://articles.latimes.com/1991-10-12/news/mn-152_1_voluntary-manslaughter; Ronald N. Jacobs, *Race, Media, and the Crisis of Civil Society: From Watts to Rodney King*, (Cambridge: Cambridge University Press, 2000), 81.

¹¹ "3/7/91: Video of Rodney King Beaten by Police Released," *ABC News* video, 1:32, accessed on September 5, 2014, <http://abcnews.go.com/Archives/video/march-1991-rodney-king-videotape-9758031>.

discussion around race and police brutality. Despite significant outcry, especially from the African American community, a jury acquitted all of the officers the following year.¹²

Just two months after the King beating, a forty-nine year old Korean convenience store owner, Soon Ja Du shot and murdered Latasha Harlins, a fifteen year old African American girl in Compton, California. When Du thought that Harlins was attempting to steal orange juice from her store, she and Harlins violently clashed. From behind the counter, Du grabbed at Harlins' sweater. Harlins swung back at Du, hitting her three times. When Harlins was able to break free, she placed the bottle of orange juice on the counter and turned away most likely to leave the store. Du then pulled a gun out from under the counter and shot Harlins in the back of the head, killing her. Later during her murder trial, Du's lawyers argued that her son modified the gun without her knowledge, giving it a hair trigger. Like the Rodney King beating, a security camera captured Latasha Harlins's murder and the media televised the shocking footage. Although Soon Ja Du was found guilty of voluntary manslaughter, Judge Joyce Karlin chose to immediately release her on probation, only requiring Du to complete three hundred hours of community service and pay the expenses for Harlins's funeral.¹³ In Judge Karlin's sentencing remarks she stated that Du was not a threat to society and that Du reacted so dramatically because her family were the victims "of repeated robberies and terrorism" in their store.¹⁴ Judge Karlin's weak sentencing horrified African Americans and the racial tension

¹² Stevenson, *The Contested Murder of Latasha Harlins*, 283.

¹³ Fiske, *Media Matters*, 159-169; Ford et al., "Grocer is Convicted in Teen Killing: Verdict: Jury Finds Korean Woman Guilty of Voluntary Manslaughter of a Black Girl," 1991; Stevenson, *The Contested Murder of Latasha Harlins*, 2013.

¹⁴ Fiske, *Media Matters*, 161.

following the Rodney King beating and Latasha Harlins's murder ignited the massive five-day long riot in Los Angeles in 1992. The L.A. Riot caused the incineration of over 1,100 buildings, over 2,300 people were injured, and fifty-four individuals were killed.¹⁵

Meanwhile, members of both the Democratic and Republican parties were stigmatizing welfare recipients. Welfare was never popular but the distrust of recipients of public assistance grew significantly after World War II, when welfare became synonymous with Black women migrating from the South to the North. In the 1970s, mostly Republican politicians from across the U.S. promoted anti-fraud campaigns targeted at ending the misuse of welfare benefits. While evidence showed that fraud was occurring on a very limited scale, these campaigns significantly increased suspicions of all women on welfare.¹⁶ During his 1976 presidential campaign, Ronald Reagan frequently disparaged welfare recipients describing them as lazy and deceitful and referring to them as "welfare queens." The concept of the welfare queen illegitimately receiving large amounts of money from the state came to influence the political debate over welfare throughout the 1980s and 1990s.¹⁷

¹⁵ Fiske, *Media Matters*, 125-142; Elizabeth Mullen and Linda J. Skitka, "When Outcomes Prompt Circumstance: An Analysis of the Rodney King Case," *Analyses of Social Issues and Public Policy* 6:1 (2006): 1-2.

¹⁶ Kohler-Hausmann, "Welfare Crises, Penal Solutions, and the Origins of the 'Welfare Queen,'" 765.

¹⁷ Kohler-Hausmann, "Welfare Crises, Penal Solutions, and the Origins of the 'Welfare Queen,'" 757; Gene Demby, "The Truth Behind the Lies of the Original 'Welfare Queen,'" *All Things Considered: NPR*, December 20, 2013, accessed on October 17, 2019, <https://www.npr.org/sections/codeswitch/2013/12/20/255819681/the-truth-behind-the-lies-of-the-original-welfare-queen>; Christopher Borrelli "Reagan Used Her, The Country Hated Her. Decades Later the Welfare Queen of Chicago Refuses to Go Away," *The Chicago Tribune*, June 10, 2019, accessed on October 17, 2019, <https://www.chicagotribune.com/entertainment/ct-ent-welfare-queen-josh-levin-0610-story.html>.

At the same time, many Democratic politicians began supporting policies previously associated with right-wing ideologies, like tax cuts and limiting welfare benefits. They argued that minimizing the government's interaction with the marketplace would help the U.S. be more competitive in the global economy. In the early 1990s, Democratic President Bill Clinton epitomized this stance as he ran for president on a platform that advocated for sweeping welfare reforms and aggressive crime control policies.¹⁸ Ultimately, this political shift led to the passing of the Personal Responsibility and Work Opportunity Act (PRWORA) in 1996. The PRWORA eliminated the entitlement to welfare, approved stringent work requirements and time limits for all welfare recipients, and denied benefits to legal immigrants.¹⁹ While scholars have examined the negative effects of the PRWORA on welfare recipients, the role of Norplant in these struggles has been left out of the narrative.²⁰

Political rhetoric around teenage pregnancy was similarly linked to political attacks on poor and minority women, with particular emphasis on African American and Latina teenage girls. Although statistics show that the early 1990s saw a decline in teenage pregnancy rates, during President Clinton's 1995 State of the Union Address, he argued that teenage pregnancy and children born out-of-wedlock was the U.S.'s "most

¹⁸ Chappell, *The War on Welfare*, 11-12.

¹⁹ Chappell, *The War on Welfare*, 1.

²⁰ Chappell, *The War on Welfare*, 2010; Berkowitz, *America's Welfare State From Roosevelt to Reagan*, 1991; Cacho, *Social Death*: 2012; Gordon, *Pitied but not Entitled*, 1994; Kessler-Harris, *In Pursuit of Equity*, 2001; Kohler-Hausmann, "Welfare Crises, Penal Solutions, and the Origins of the 'Welfare Queen,'" 2015; Loprest et al., "Welfare Reform under PRWORA: Aid to Children with Working Families," 2000; Mounk, *The Age of Responsibility: Luck, Choice, and the Welfare State*, 2017; Stevenson, *The Contested Murder of Latasha Harlins: Justice, Gender, and the Origins of the LA Riot*, 2013; Hinton, *From the War on Poverty to the War on Crime*, 2016.

serious social problem.”²¹ At the time, both Democrats and Republicans argued that teenage pregnancy was a primary cause of many of society’s ills and the money spent on teenage parents and their children was depleting the nation’s resources. This political discourse created false perceptions and fears that allowed governments to place greater controls on teenage mothers’ lives and reproduction, including encouraging adolescent girls living in areas with high teenage pregnancy rates to use Norplant.²²

To understand how Norplant came to play a role in late-twentieth century politics requires an exploration of the history of state-sanctioned sterilizations in the U.S. This practice dates back to the nineteenth century and the birth of the eugenics movement, which advocated for the sterilization of women deemed “unfit” for motherhood.²³ Eugenicists argued for the sterilization of women they believed would pass “defective” hereditary traits like “feeble-mindedness” and alcoholism onto their children. In the early twentieth century, as eugenic theories became more widely accepted, political leaders began to consider reproduction a public health issue rather than a private decision. Some politicians and public advocates believed they should decide who was fit for motherhood. For instance, racist ideologies led eugenicists like Margaret Sanger to promote the use of permanent sterilization and birth control amongst women of color, especially African

²¹ Clare Daniel, *Mediation Morality: The Politics of Teen Pregnancy in the Post-Welfare Era*, (Amherst: University of Massachusetts Press, 2017), 21; Rachel B. Kaufmann, Alison M. Spitz, Lilo T. Strauss, Leo Morris, John S. Santelli, Lisa M. Koonin and James S. Marks, “The Decline in US Teen Pregnancy Rates, 1990–1995,” *Pediatrics: Official Journal of the American Academy of Pediatrics* 102:5 (1998), accessed on March 5, 2020, <https://pediatrics.aappublications.org/content/102/5/1141>.

²² Daniel, *Mediation Morality* 20-27; Rickie Solinger, *Wake Up Little Susie, Single Pregnancy and Race before Roe v. Wade* (New York: Routledge, 2000), 240-242.

²³ Mary Ziegler, *After Roe: The Lost History of the Abortion Debate*, (Cambridge: Harvard University Press, 2015), 3.

American women, as a way to improve humanity.²⁴ U.S. politicians employed eugenic theories to justify forced sterilizations of women labeled “feebleminded” until World War II when German Nazis used the same theories to justify the mass genocide of Jews. The Holocaust abruptly altered society’s acceptance of eugenics, but practices targeted at minority and poor populations continued long after the Second World War ended.²⁵

As discussed in the previous chapter, overflowing cities, air and water pollution, and increases in taxes to pay for welfare benefits in the post-war era led to an increased interest in population control policies in the U.S. and around the world.²⁶ Advocates of “population control” argued for curbing poor women’s reproduction to combat rising population rates.²⁷ Because the compelled use of oral contraceptives was difficult to enforce, they welcomed the introduction of early provider controlled contraceptives like IUDs. While initially not as effective as the birth control pill, IUDs were provider controlled, and therefore a woman could not choose to stop using the contraceptive device on her own. In the 1960s, the Population Council, a powerful nongovernmental organization (NGO) that advocated for global population control, developed the first IUD. With the hope of curbing population growth, the Council first made IUDs available to women living in the Global South. Shortly after, Planned Parenthood and clinics serving low-income communities in the U.S. began prescribing and inserting IUDs. During the 1970s, IUDs became more widely available to the American public. Almost

²⁴ Kluchin, *Fit to be Tied*, 19.

²⁵ Kluchin, *Fit to be Tied*, 89.

²⁶ Kluchin, *Fit to be Tied*, 33-34.

²⁷ For more information about the population control movement, please see chapter one.

immediately, hundreds of major medical issues and eighteen women's deaths were attributed to an IUD called the Dalkon Shield. The legal battle that followed resulted in over 11,000 lawsuits and A. H. Robins, one of the most successful manufacturing companies in the nation and Dalkon Shield's producer, declaring bankruptcy. The controversy surrounding the Dalkon Shield made it difficult for population control activists to promote IUDs.²⁸ Because Norplant was also a provider-controlled device that effectively prevented pregnancies for up to five years, it presented a new opportunity for people who wished to control women's bodies through temporary sterilizations. It did not take long for the coercion to begin.

Just one month after Norplant's FDA approval, a judge employed the drug as part of a woman's parole agreement. On January 2, 1991, Darlene Johnson was convicted of child abuse for beating two of her four children with an electric cord and belt buckle.²⁹ At the time, Johnson was a twenty-eight year old African American pregnant mother of four,

²⁸ Kluchin *Fit to be Tied* 52-58; Andrea Tone, *Devices and Desires: A History of Contraceptives in America*, (New York: Hill and Wang: A Division of Farrar, Straus and Giroux, 2001), 261-285; Alan M. Dershowitz, "Birth Control As Penalty for Child Abuse," *Los Angeles Times*, June 4, 1988, accessed on December 4, 2017, http://articles.latimes.com/1988-06-04/local/me-3632_1_birth-control; "Women's Sentencing is Birth Control," *New York Times*, May 26, 1988, accessed on December 4, 2017, <http://www.nytimes.com/1988/05/26/us/woman-s-sentence-is-birth-control.html>; Felicity Barringer, "Sentence for Killing New Born: Jail Time, Then Birth Control," *New York Times*, November 18, 1990, accessed on December 18, 2017, <http://www.nytimes.com/1990/11/18/us/sentence-for-killing-newborn-jail-term-then-birth-control.html>. In the 1980s and 1990s, several judges used birth control as a way to prevent female convicts from having children. In 1988, Debora Ann Forster was an eighteen-year old mother of three when she pled guilty to two counts of child abuse after she abandoned two of her children in her apartment in Mesa, Arizona. The judge presiding over Forester's case, ordered her to a lifetime probation in which she was required to take birth control for the rest of her childbearing years. Two years later, in 1990, Tracy Wilder, a seventeen year-old girl, gave birth to a child in the restroom of a Florida emergency room. She then wrapped the infant in plastic and left it in a trashcan. Judge Lawrence Page Haddock, sentenced Wilder to two years in prison and a ten year probation, which would require her to be on birth control.

²⁹ Judy Farah, "Rule of Law: Crime and Creative Punishment," *The Wall Street Journal*, March 13, 1995, A15; Martin Gunderson "Birth Control as a Condition of Probation or Parole," in *Biomedical Ethics Review*, ed. James M. Humber and Robert F. Almeder (Clifton: Humana Press, 1992), 83.

living in Visalia, California. After becoming a mother at sixteen, she used the welfare system to support her family. When a *60 Minutes* reporter asked her about the case against her, Johnson admitted that she had beaten her children but stated that she still believed she was a good mother.³⁰ Although Johnson was eligible for a six-year prison term, California county judge Howard Broadman ordered her to attend parenting classes, undergo mental health counseling, and serve three years of probation. He also required Johnson to have Norplant inserted into her arm for three years.³¹ To complicate the situation further, the media revealed that Johnson was diabetic and thus vulnerable to additional health risks associated with Norplant.³²

Despite initial criticisms from feminists and human rights advocates, Judge Broadman remained steadfast in his belief that his order to sterilize Johnson for three years was justified. Broadman was already well known for creative punishments. Before Johnson's case, he sentenced a man to wear a t-shirt that described his theft crime for a year as a part of his parole.³³ In Johnson's case, Broadman claimed the safety of her

³⁰ Judge Broadman, "60min 60MIN," YouTube video, Posted [September 27, 2018] 11:14, <https://www.youtube.com/watch?v=uHpCGTDIGG8>; Nancy S. Jecker, "Founding a Family: Ethical Reflections on Compulsory Contraception," in *Biomedical Ethics Review*, ed. James M. Humber and Robert F. Almeder (Clifton: Humana Press, 1992), 132-133. Some documents state that Darlene Johnson was twenty-seven at the time of these events.

³¹ Rebecca Dresser, "Long-Term Contraceptives in the Criminal Justice System," in *Coerced Contraception? Moral and Policy Challenges of Long-Acting Birth Control*, ed. Ellen H. Moskowitz and Bruce Jennings (Washington D.C.: Georgetown University Press, 1996), 136. Tamar Lewin, "Implanted Birth Control Device Renews Debate Over Forced Contraception," *New York Times*, January 10, 1991, A20.

³² Julie Scott, "Norplant: Its Impact on Poor Women and Women of Color," *The Kaiser Family Foundation*, November 1991, 18, box 8, folder: Fact Sheets: Byllye Avery Long Term Contraceptives-Norplant (Unprocessed), BWHIR, SSC; Gunderson, "Birth Control as a Condition of Probation or Parole," 84.

³³ "Russell Hackler's Punishment Fit the Crime and the Criminal to a T: He Made an Arresting Sight," *People Magazine*, August 27, 1990, 59.

children as his justification. He explained his decision: “The compelling state interest in the protection of the children of the state supersedes this particular individual’s right to procreate.”³⁴

Although Johnson initially agreed to the terms of the parole agreement, she disclosed that she was led to believe that her only alternative was serving four years in prison.³⁵ After the ACLU came to her aid, Johnson decided that forced sterilization restricted her constitutional rights, and with the help of the ACLU, her court appointed attorney appealed the decision. Together they aimed to prove that the government had no right to mandate a woman’s use of birth control.³⁶

This case angered many special interest groups, including anti-abortion advocates who spoke out against Norplant. Many used arguments about fetal rights and the rights of unborn children to oppose the use of Norplant.³⁷ The fetal rights rhetoric reflected anti-abortion advocates’ responses to the significant advancements in fetal medicine in the last decades of the twentieth century. Doctors’ abilities to study a fetus, track its development, and treat very premature infants inspired a fundamental shift in the perception of the maternal-fetal relationship, in which the medical community along with politicians and activists increasingly viewed the fetus as an individual separate from its mother. Increasingly, the fetus’s health was prioritized over the mother’s well-being.³⁸

³⁴ Mary Cantwell, “Coercion and Contraception: An Unfit Mother, A Worse, Plea Bargain,” *New York Times*, January 27, 1991, E16.

³⁵ Gunderson “Birth Control as a Condition of Probation or Parole,” 84.

³⁶ Michael Lev, “Judge is Firm on Forced Contraception, but Welcomes an Appeal,” *New York Times*, January 11, 1991, A17.

³⁷ Sara Dubow, *Ourselves Unborn: A History of the Fetus in Modern America*, (Oxford: Oxford University Press, 2011), 113.

³⁸ Dubow, *Ourselves Unborn*, 120; Daniel, *Mediation Morality* 24.

The American Life Lobby and the Family Research Council led the initial anti-abortion campaigns against Norplant. These organizations, like women health activists, argued that Norplant was hurried onto the American market, and they believed the contraceptive device to be ““an early abortion causing drug”” because it used hormones to block pregnancies.³⁹ Hormonal-based contraceptives like Norplant do not always prevent ovulation (the release of an egg), but they do thin the lining of a woman’s endometrium, or the uterine wall. They prevent pregnancies because fertilized eggs are unable to implant in the uterine wall. Because many anti-abortion activists believe that “life begins at conception,” they reason that hormonal contraceptives cause early abortions.⁴⁰

On March 6, 1991, an anti-abortion activist, who disagreed with Judge Broadman’s decision to use Norplant as a part of Johnson’s punishment, protested violently. Harry Raymond Bodine entered the Tulare County courthouse in Visalia, where Broadman worked, and fired one shot at him, narrowly missing his head.⁴¹ After shooting, Bodine set down his gun and firmly stated, “I’m guilty. I did it...Those drugs [referring to Norplant] kill babies.”⁴² Bodine was charged with attempted murder, and Broadman subsequently removed himself from Johnson’s case.⁴³

³⁹ Ann Quindlen, “Public and Private, Common Ground,” *New York Times*, December 13, 1990, accessed on January 10, 2018, <http://www.nytimes.com/1990/12/13/opinion/public-private-common-ground.html>.

⁴⁰ Sharon L. Camp and Craig Lasher of Population Crisis Committee to Reproductive Rights Colleagues, “Campaign of Anti-Abortions Rights Groups Against Norplant,” January 15, 1991, box 175 folder 1: Contraception Norplant 1985-1993, NWHNR, SSC; Abby Johnson, “All the pro-life facts about hormonal contraceptives (that you probably don’t want to hear)- Par 1,” LifeSiteNews.com, accessed on January 11, 2018, <https://www.lifesitenews.com/blogs/all-the-pro-life-facts-about-hormonal-contraception-that-you-probably-don-t>; Gina K. Robeen, “Laws Like White Elephants: Sterilizations of the Right to Privacy,” *SMU Law Review* 46:1 (1993): 66.

⁴¹ “Man is Arraigned in Courtroom Shooting,” *New York Times*, March 7, 1991, A22.

⁴² “Gunshot Fired at Judge is Tied to Norplant Case,” *New York Times*, March 6, 1991, A20.

⁴³ “Judge Removes Himself in Birth Control Case,” *New York Times*, April 15, 1991, A13.

While Johnson's attorney and the ACLU continued the legal fight, the court threw out Johnson's appeal after she was found to have used cocaine and ordered to return to prison for breaking her parole.⁴⁴ Because the appeals court decided to not proceed with the case, no precedent was set, and judges across the country continued to employ Norplant as part of parole agreements.⁴⁵ By 1994, U.S. judges had ordered seven women to have Norplant forcibly inserted.⁴⁶

Welfare recipients were also at risk of being coerced into using Norplant. Before significant welfare reforms were passed in the mid-1990s, state representatives across the U.S. proposed programs that would either require women on welfare to be implanted with Norplant or provide additional monetary benefits to welfare recipients who chose to use the contraceptive implant. The first of these programs was proposed in Kansas. Republican state representative Kerry Patrick proposed the bill that would provide women on welfare with a \$500 one-time grant if they agreed to an implant and an

⁴⁴ "Birth Curb Order is Declared Moot: No Legal Precedent is Set in California Norplant Case," *New York Times*, April 15, 1992, A23.

⁴⁵ Roberts, *Killing the Black Body*, 197. "Eye on America (Drugs: Child Abuse and Birth Control)," *CBS Evening News*, August 8, 1991, VTNA. Broadman again attempted to use Norplant as punishment child abuse. A jury of felony child abuse for beating her five-year-old son convicted Norma Duran Garza. Although the probation department recommended a one year sentence, Judge Broadman sentenced her to four years after she refused to accept Norplant as part of her probation, even after she testified that the use of birth control infringed upon her religious beliefs. Garza's lawyer considered the punishment to be extreme, especially because Garza had no history of drug use. Additionally, in Florida a seventeen year old woman plead guilty to the murder of her newborn child after the court promised her a short prison sentence and ten years on birth control.

⁴⁶ James G. Connell, III, "Norplant and the New Paradigm of International Population Policy," *William and Mary Journal Woman and Law* 2:1 (1995): 101, accessed on May 2, 2018, <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1285&context=wmjowl>. For example, in 1993 a Florida woman pled guilty to aggravated child abuse and consented to a plea agreement that required her to use Norplant and attend court ordered counseling. Also in 1993, an Illinois county judge sentenced another women who pled guilty to child abuse to six months of prison time and forty-two month of probation with the condition that she had Norplant inserted.

additional \$50 for each year the woman remained on Norplant.⁴⁷ The controversial proposal incited much debate both within the state and nationwide.⁴⁸ Patrick claimed that it was, “time we stopped worrying about the rights of the mother and started worrying about the rights of the children she’s bringing into the world.”⁴⁹ With this incentive program, Patrick intended to prevent pregnancies amongst women on welfare, and publicly he used the rights of children and anti-abortion rhetoric to justify the Norplant incentive program. These justifications were reminiscent of anti-abortion advocates’ arguments against abortions. Therefore, both a woman’s right to have a safe and lawful abortion and a woman’s right to have a child was being attached to political ideologies aligned with the right.⁵⁰

Leading the fight against Patrick’s incentive proposal in Kansas was the Democrat representative Kathleen Sebelius. Sebelius, who would later become the Secretary of Health and Human Services under Democratic President Barack Obama, saw Norplant as a significant breakthrough in birth control technology that could aid women. Seeing powerful men use the contraceptive device to “control women’s reproductive choices” horrified her.⁵¹

⁴⁷ Tamar Lewin, “A Plan to Pay Welfare Mothers for Birth Control,” *New York Times*, February 9, 1991, 9.

⁴⁸ Judge Broadman, “60min 60MIN.”

⁴⁹ Jeanne L. Vance, “Womb for Rent: Norplant and the Undoing of Poor Women,” *Hastings Constitutional Law Quarterly* 21:827 (Spring 1994): 831-832.

⁵⁰ Joanna Schoen, *Choice and Coercion: Birth Control, Sterilization, and Abortion in Public Health and Welfare*, (Chapel Hill: UNC Press, 2005); Jennifer Nelson, *Women of Color and the Reproductive Rights Movement*, (New York: NYU Press, 2003); Jennifer Nelson, *More than Medicine: A History of the Feminist Women’s Health Movement*, (New York: New York University Press, 2015); Jael Silliman, Marlene Gerber Fried, Loretta Ross, Elena R. Gutiérrez eds., *Undivided Rights: Women of Color Organize for Reproductive Justice*, (Cambridge: South End Press, 2004). Roberts, *Killing the Black Body*, 1997.

⁵¹ “Bio,” [sebeliusresources.com](http://www.sebeliusresources.com), 2015, accessed on February 16, 2018,

<http://www.sebeliusresources.com/welcome-1/>; Judge Broadman, “60min 60MIN.”

Meanwhile in Louisiana, David Duke, a former Grand Wizard of the Ku Klux Klan was running for governor. As a part of his platform, Duke proposed an initiative program that would give mothers on welfare cash payments if they used Norplant. Although Duke considered his proposal to be “tough love” for welfare recipients, others considered these proposals to be forced sterilization.⁵² An article in *The Harvard Crimson*, the daily student newspaper, commented: “When women are desperate for money to help raise their children, the carrot of increased benefits for using Norplant becomes a stick, and choice becomes coercion, even extortion.”⁵³ Duke lost the race but in 1991, as a member of Louisiana’s State Senate, he proposed legislation offering \$100 a year to any woman on welfare who used Norplant.⁵⁴

Almost immediately, other state legislatures across the U.S. proposed programs that encouraged poor women to use Norplant. In 1993 alone, seventeen legislative measures related to Norplant were proposed in ten states: Arizona, Arkansas, Colorado, Florida, Illinois, Maryland, North Carolina, Ohio, South Carolina, Tennessee, and Washington. An examination of the 1992 presidential results demonstrates that these states were not dominated by a single political party -- both Democrats and Republicans advocated these policies.⁵⁵ Most of the proposed measures offered monetary incentives to

⁵² Stephanie Denmark, “Birth-Control Tyranny,” *New York Times*, October 19, 199. 23.

⁵³ Allen C. Soong, “The Use and Abuse of Norplant,” *The Harvard Crimson*, February 8, 1993, accessed on February 14, 2018, <http://www.thecrimson.com/article/1993/2/8/the-use-and-abuse-of-norplant/>.

⁵⁴ Tamar Lewin, “5-Year Contraceptive Implants Seems Headed for Wide Use: Contraceptive Implant Seems Bound for Wide Use,” *New York Times*, November 29, 1991; Soong, “The Use and Abuse of Norplant,” 1993.

⁵⁵ “1993-94 Norplant Legislative Activity” ACLU Reproductive Freedom Project, 1994, subgroup 4, box 5419 folder 44: 1993-1994 Norplant Legislative Activity, Public Policy Papers, Department of Rare Books and Special Collections, ACLUR, PUL; “The Presidency Project: Election of 1992,” University of California Santa Barbara, accessed on February 20, 2018, <http://www.presidency.ucsb.edu/showelection.php?year=1992>.

women who chose to go on Norplant, and a few of the bills required AFDC recipients to use Norplant to maintain their cash assistance.⁵⁶ The state delegates who sponsored the bills maintained that they were not pressuring women to use Norplant because the monetary incentive offered was too small to create significant change in a woman's life. In other words, they believed that although the extra money would be enough to gain the attention of women living on welfare, it was not enough to be considered coercion.⁵⁷ Feminist and human rights organizations opposed the policies arguing that they were coercive sterilizations.⁵⁸ A lawyer working at the ACLU observed that the organization would have loved to see these programs be a part of a larger effort to make reproductive health care better rather than "a bribe that pushes women into one choice instead of creating more choices."⁵⁹ Ultimately, due to the backlash and media attention, none of the incentive programs passed the proposal stage.

While the incentive programs were never put into practice, temporary sterilizations ramped up after Norplant's introduction to the American market. Every state's (and D.C.'s) Medicaid program agreed to pay for a recipient's Norplant device and insertion. While this gave many poor women access to the contraceptive device,

⁵⁶ Meredith Blake, "Welfare and Coerced, Contraception: Morality Implication of State Sponsored Reproductive Control," *University of Louisville Journal of Family Law* 34:2 (1995); Darci Elanie Burrell, "The Norplant Solution: Norplant and the Control of African American Motherhood," *UCLA Women's Law Journal* 5:2 (1995): 402; "Norplant: Opportunities and Perils for Low-Income Women: A Project of the Alan Guttmacher Institute Special Report #2," *The Alan Guttmacher Institute*, July 1993, box 197 folder 15: Cover letters..., 1993-2005 Norplant, NWHNR, SSC.

⁵⁷ John A. Robertson, "Norplant and Irresponsible Reproduction," in *Coerced Contraception? Moral and Policy Challenges of Long-Acting Birth Control*, ed. Ellen H. Moskowitz and Bruce Jennings (Washington D.C.: Georgetown University Press, 1996), 97.

⁵⁸ Robertson, "Norplant and Irresponsible Reproduction," in *Coerced Contraception? Moral and Policy Challenges of Long-Acting Birth Control*, 98.

⁵⁹ Tamar Lewin, "A Plan to Pay Welfare Mothers for Birth Control," *New York Times*, February 9, 1991, 9.

some feminists, especially feminists of color and indigenous feminists, argued that it was coercion because Medicaid did not cover all forms of contraceptives. Also, many states' Medicaid programs did not cover Norplant's removal, which could cost as much as two hundred dollars, especially if the removal happened before the standard five-year period.⁶⁰ In South Dakota, Oklahoma, and South Carolina, the state would not pay to have the device removed early unless a woman experienced a medical complication authorities deemed worthy.⁶¹

Many Medicaid recipients struggled to convince healthcare providers to remove their Norplant device upon request. For instance, Su Jaan Fields, a twenty-one year old woman living in Detroit in the early 1990s, chose to use Norplant following her daughter's birth because Medicaid covered the costs. When she had Norplant inserted, her nurse practitioner did not counsel her on the side effects and risks associated with the drug. Fields was surprised when she experienced severe cramping, constant bleeding, migraines, dizziness, and fatigue. Her symptoms prompted her to return to the clinic to have the device removed. Field's nurse practitioner tried to treat her symptoms with estrogen, birth control pills, Motrin, and vitamin C.⁶² After two and a half years of suffering, Fields switched clinics. Her new doctor agreed to remove the Norplant device, but when she underwent the surgery the doctor found that the capsules had been inserted

⁶⁰ "Too much or Too Little-Access to Norplant implants fuels ethics debate," *Contraceptive Technology Update: A Monthly Newsletter for Health Professionals* 14: 9 (September 1993): 30, box 197 folder 15: Cover letters..., 1993-2005 Norplant, NWHNR, SSC.

⁶¹ Elizabeth Jekanowski, "Voluntarily, for the Good of Society: Norplant, Coercive Policy, and Reproductive Justice," *Berkeley Public Policy Journal* (August 23, 2018), accessed on August 21, 2019, <https://bppj.berkeley.edu/2018/08/23/norplant-coercive-policy-and-reproductive-justice/>.

⁶² Jennifer Washburn, "The Misuses of Norplant: Who Gets Stuck?" *Ms. Magazine*, November 1996, 32-36.

too deeply. After an hour-long painful procedure, which tore ligaments in her arm, the doctor was still unable to locate the sixth capsule and decided to leave it in.⁶³ Two years following the ordeal, Fields discussed her experiences with Norplant in an article in *Ms. Magazine*. She stated that she was still suffering from frequent migraines caused by Norplant.⁶⁴

Native American women living on reservations were frequently the victims of unethical prescribing practices. As a form of reparations, beginning in the 1920s, Native Americans living on reservations were provided free healthcare services. Later in the 1950s, the Indian Health Service (IHS), a division of the U.S. Public Health Service, became the primary healthcare provider for Native peoples and the agency's paternalistic approach to healthcare often led to oppressive practices.⁶⁵ As early as 1991, the IHS began aggressively prescribing Norplant.⁶⁶ Native American feminists researched this practice and concluded that the federal agency lacked a standard prescribing procedure to secure informed consent. They also lacked systems to monitor women's health following insertion procedures. The result was that healthcare providers were prescribing Norplant without making patients were good candidates for the drug. Native American women had high rates of health problems such as diabetes and high blood pressure that made Norplant a poor birth control choice for them. Yet patient surveys revealed that IHS practitioners pushed Norplant upon them without informing them of the possible risks

⁶³ Washburn "The Misuses of Norplant: Who Gets Stuck?" 32-36.

⁶⁴ Washburn "The Misuses of Norplant: Who Gets Stuck?" 32-36.

⁶⁵ Jane Lawrence, "The Indian Health Service and the Sterilization of Native American Women," *The American Indian Quarterly* 24:3 (Summer 2000).

⁶⁶ "Native American Women Uncover Norplant Abuses," *Ms. Magazine*, September 1993, 69.

involved. Further, the IHS did not have a tracking system to remind their patients to remove their device after the five-year period. This decision put Norplant patients' lives at risk because if a woman became pregnant while the device was still in her arm, she was at risk of an ectopic pregnancy.⁶⁷

Another incentivized use of Norplant came from an organization that paid cash to individuals struggling with substance abuse to be permanently or semi-permanently sterilized.⁶⁸ This organization came on the heels of the punishment for possessing crack cocaine under Reagan's War on Drugs and amid growing efforts to criminalize women who used the drug during their pregnancy. Policymakers used fetal rights arguments to argue for the protection of the unborn child and justify a widespread racialized attack against women alleged to use crack during their pregnancies.⁶⁹ The image of the "crack baby," a term that described a developmentally delayed newborn who was exposed to crack prior to birth, vilified Black mothers and justified prosecuting and sterilizing women who tested positive for drugs after giving birth.⁷⁰ In this political climate, Barbara Harris, a mother of six living in Orange County, California, founded an organization called Children Requiring a Caring Kommunity (CRACK) in 1994. Initially, the organization's sole mission was to pay women who used crack cocaine to be sterilized

⁶⁷ Wyeth-Ayerst Laboratories, *Norplant System Levonorgestrel Implants*, box Ch 43 folder: Norplant Information and policies, 1991-1994, HMP, SBC; NAWHERC, "Know the Facts. Make Wise Choices. Norplant" informative flier, box 22 folder 1: "A Study of the Use of Depo-Provera and Norplant by the IHS," Protocol Notes, 1993, NAWHERCR, SSC; "Native American Women Uncover Norplant Abuses" 69; Chapter three will further explore the IHS's use of Norplant to sterilize Native women.

⁶⁸ "Dash Robinson, "Cracks in the Armor," Washington Paper City, September 22, 2000, box 175 folder 3: C.R.A.C.K. Program 2000-2001, NWHN, SSC. Some sources say 1997, but the evidence shows that the organization started in 1994 but became much more prevalent in later in the 1990s.

⁶⁹ Dubow, *Ourselves Unborn*, 137-139.

⁷⁰ Roberts, *Killing the Black Body*, 150-201. Scientific studies have shown that crack cocaine use during a woman's pregnancy has few long term effects on a child's health.

either surgically or through the use of long-acting reversible contraceptives like Norplant.⁷¹

Harris experiences as a foster parent inspired her to found CRACK. In 1989, she had become a foster parent to an eight-month-old baby girl, Destiny. The child's biological mother had used Phencyclidine (also known as PCP), crack cocaine, and heroin during her pregnancy. At birth, Destiny had medical issues doctors believed were related to withdrawal and they said she was in danger of lifelong learning disabilities. Just a few months after Harris brought Destiny into her family's home, she received another call from the foster system notifying them that Destiny's birth mother had delivered another child suffering from similar symptoms. They decided to become foster parents to the infant. This situation occurred another two times leaving them with four foster children from the same birth mother.⁷²

In the early 1990s, after failing to get the attention of the district attorney and police, Harris lobbied Republican Assemblyman Phil Hawkins, who represented the mostly blue-collar region in Los Angeles County's South Bay, to sponsor the Prenatal Neglect Act. If passed, the act would have punished any woman who knowingly used a controlled substance while pregnant with either a misdemeanor or a felony depending on the seriousness of the child's condition at birth. While Hawkins argued that the act was born out of Harris's personal experience as a foster mother, scholars have shown that it

⁷¹ Erin Kidd, "Harrisburg Woman to be Featured on HBO," *Independent Tribune: The Local Voice of Greater Cabarrus County*, July 5, 2017, accessed on February 26, 2018, http://www.independenttribune.com/news/harrisburg-woman-to-be-featured-on-hbo/article_7fa6c85a-6199-11e7-bdb7-57ade3247583.html.

⁷² "Inheritance: What if there was no Destiny," *Radiolab*, podcast audio, November 20, 2012, <http://www.radiolab.org/story/251876-inheritance/>.

was also part of a larger political movement to reform welfare legislation in the early and mid-1990s. Political figures associated with both the Democratic and Republican parties supported these reforms.⁷³ To gain support for the bill, Harris discussed the issue on talk shows. On an episode of *The Oprah Winfrey Show*, Harris talked about drug users like the biological mother of her adopted children: “If these women use Norplant... they couldn’t get pregnant. I believe that that is the solution.”⁷⁴ Organizations that opposed the bill, like the ACLU and Planned Parenthood, considered it to be disadvantageous.⁷⁵ They worried that women drug users fearing prosecution and arrests would be less likely to seek out prenatal care. Additionally, the proposed act targeted women living in poverty because they were ineligible and unable to afford treatment services. Instead of criminalizing women suffering from drug addiction, the opposition wanted to provide more treatment options.⁷⁶ Some pointed out that women who chose to be permanently sterilized may later regret their decision. A Planned Parenthood representative commented: “Some women are able to kick their habits and get off of this addiction and then what happens if they have made a decision with a method of birth control that is

⁷³ Laura É. Gomez, *Mothers: Legislators, Prosecutors and the Politics of Prenatal Drug Exposure*, (Philadelphia; Temple University Press, 1997), 60.

⁷⁴ Project Prevention, “Oprah 96,” YouTube video, Posted [September 30, 2010] 3:46, <https://www.youtube.com/watch?v=j1fZMbwIogw&t=128s>.

⁷⁵ California Congress, Assembly Committee on Public Safety, *Hearings on Assembly Bill 2614 The Prenatal Act*, April 23, 1996, accessed on February 23, 2018, 5, www.leginfo.ca.gov/pub/95-96/bill/asm/ab_2601-2650/ab_2614_cfa_960422_090558_asm_comm.html.

⁷⁶ California Congress *Hearings on Assembly Bill 2614 The Prenatal Act 5*.

considered to be permanent.”⁷⁷ The strong opposition to the bill ultimately led California’s Senate to defeat it in 1996.⁷⁸

Rebuffed by the failed legislation, Harris turned to the private sector and her organization to fix the issue. Through CRACK, Harris offered both fathers and mothers struggling with abuse \$200 (later the price increased to \$300) in cash if they could prove that they were permanently sterilized. The organization also offered individuals who had never given birth cash for long-term birth control use, including Norplant patients.⁷⁹ To spread the word about CRACK, Harris placed advertisements on public transportation in neighborhoods in which police and prosecutors considered to have high levels of illegal drug activity. As a way to gain additional attention, many of the advertisements were abrasive, including statements like “Don’t Let a Pregnancy Ruin Your Drug Habit” or “If You Use Drugs, Get Birth Control, Get \$200 Cash.”⁸⁰

In the mid-1990s, Harris again appeared on a number of news programs and daytime talk shows to publicize her message and organization. During many of these appearances, she became heated and confrontational with other guests or the hosts. For

⁷⁷ “Crack Cocaine Babies/ Program,” *ABC Evening News*, April 26, 1998, VTNA.

⁷⁸ Juli Horka-Ruiz, “Preventing the Birth of Drug Addicted Babies Through Contract: An Examination of the C.R.A.C.K. Organization,” *William & Mary Journal of Women and the Law* 7:2, (2001): 473-474; Lynn Smith, “Punish or Protect,” *LA Times*, September 3, 1996, 1.

⁷⁹ “What is the C.R.A.C.K. Program?” box 175 folder 3: C.R.A.C.K. Program 2000-2001, NWHNR, SSC; Andrea Smith, *Conquest: Sexual Violence and American Indian Genocide*, (Brooklyn: South End Press, 2005), 86-87; Juli Horka-Ruiz, “Preventing the Birth of Drug Addicted Babies Through Contract: An Examination for the C.R.A.C.K. Organization,” *William & Mary Journal of Women and the Law* 7: 2 (2001): 473-474; Lynn Smith, “Punish or Protect,” *LA Times*, September 3, 1996; “Inheritance: What if there was no Destiny,” *Radiolab*, podcast audio, 2012.

⁸⁰ Julie Scott, “Discrimination in Disguise: Comments on CRACK (Children Requiring a Caring Kommunity),” *Sister Ink: National Black Women’s Health Project* 1:7(Fall 1999), box 175 folder 3, C.R.A.C.K. Program 2000-2001, NWHNR, SSC; “What is the C.R.A.C.K. Program?” box 175 folder 3, C.R.A.C.K. Program 2000-2001, NWHNR, SSC.

instance, on *The Gabrielle Show*, a daytime talk show hosted by actress and trade union leader Gabrielle Carteris, Harris told a group of recovering and drug addicted mothers that they should be temporarily sterilized at least until each were clean for five years.⁸¹ While on *The View*, ABC's popular daytime talk show hosted by the longtime journalist Barbara Walters, Harris was asked about Judge Judy Sheindlin's, the family court judge who starred in the show, *Judge Judy*, comment that CRACK was rewarding individuals for bad behavior. The judge felt that drug users should be placed in jail, not sterilized. Harris firmly disagreed, arguing that Sheindlin was "uninformed."⁸² She believed that because women sent to jail or treatment centers had the potential to relapse, the only answer to the problem was long term birth control or permanent sterilization.

Feminist and civil rights organizations such as the National Advocates for Pregnant Women, the New York City Health and Hospitals Corporation, and the National Association for the Advancement of Colored People (NAACP) argued that Harris took advantage of women at their most vulnerable moment. When *The View*'s host Walters pointed out that the money Harris's organization gave to people suffering from substance abuse could easily be used to feed a drug addiction, Harris responded, "that is their choice, but the babies don't have a choice."⁸³ Many people agreed with her arguments and supported her organization. During the 1990s and early 2000s, she secured private

⁸¹ Project Prevention, "The Gabrielle Show pt 1," YouTube video, 12:45, August 28, 2010, <https://www.youtube.com/watch?v=WGuUmkwjSFM>; Lawrie Mifflin, "2 Daytime Talk Shows are Cancelled," *New York Times*, January 3, 1996, accessed on November 8, 2019, <https://www.nytimes.com/1996/01/03/arts/2-daytime-talk-shows-are-canceled.html>.

⁸² Project Prevention, "The view," YouTube video, 6:08, September 1, 2010, <https://www.youtube.com/watch?v=nTtUxpit7BI>.

⁸³ "Inheritance," *RadioLab*, November 20, 2012; Project Prevention, "The view," September 1, 2010.

donations from many donors, including the principal heir to the Mellon fortune, Richard Mellon Scaife, and funded sterilizations in all fifty states and Washington D.C. Although it is no longer called CRACK, Harris still runs an organization that gives cash to drug users who choose to be sterilized.⁸⁴

A state-sanctioned attempt to use Norplant to temporarily sterilize poor women took shape in late-twentieth century Baltimore. In the late 1980s and early 1990s, a time when many African American residents of the city were confined to run-down neighborhoods and struggled to find decent jobs, the city's public health officials attempted to use Norplant to curb teenage pregnancy. Baltimore experienced some of the highest crime and teenage pregnancy rates in the U.S. The city ranked second in both murder and violent crimes, with much of the violence being drug related. Law enforcement's efforts to eradicate the violence focused on severely prosecuting petty crimes and led to significant distrust between the city's leaders and its African American residents.⁸⁵

⁸⁴ "Statistics," Project Prevention, accessed on March 17, 2017, <http://www.projectprevention.org/statistics/>; Clare O'Connor, "Right Wing Billionaire Sponsors Sterilization for Drug Addicts" *Forbes*, October 19, 2010, accessed on December 4, 2019, <https://www.forbes.com/sites/clareoconnor/2010/10/19/right-wing-billionaire-sponsors-sterilization-for-drug-addicts/#2e7b871b37e8>. CRACK, which is now called Project Prevention, remains in operation in Harrisburg, North Carolina. In a 2009 interview with the *LA Times*, Harris commented on her organization's clients, "They aren't bad women... They don't set out to have babies that are taken away. They feel regret about what they've done." According to the Project Prevention's website, as of January of 2017, Harris's organization had paid a total of 5,778 drug and alcohol addicted individuals. Of those, 2,098 had chosen permanent sterilization, while the rest used long-term, but temporary forms of birth control, such as Norplant, Depo Provera, an injected shot form, or intrauterine devices (IUDs).

⁸⁵ Hinton, *From the War on Poverty to the War on Crime*, 2016; Thompson, "Why Mass Incarceration Matters," 2010; Alec MacGillis, "The Tragedy of Baltimore." *New York Times Magazine*, March 12, 2019, accessed on July 8, 2019, <https://www.nytimes.com/2019/03/12/magazine/baltimore-tragedy-crime.html>; Wilbur R. Miller ed., "Baltimore, Maryland," *The Social History of Crime and Punishment in America: An Encyclopedia*, (Los Angeles: SAGE Reference, 2012), 105-108; Jordan T. Camp, *Incarcerating the Crisis: Freedom Struggles and the Rise of the Neoliberal State*, (Oakland: The University of California Press, 2016).

These racial tensions and violence coincided with some of the highest teenage pregnancy rates in the nation. In 1991, while Maryland's birthrate was 66.8 births for every 1,000 women between the ages of fifteen and forty-four, in Baltimore it was 100 for every 1,000.⁸⁶ Critics noted that the majority of these teenage mothers relied upon government assistance programs, such as Aid to Families with Dependent Children (AFDC), the special supplemental food program for Women, Infants, and Children (WIC), food stamps, and Medicaid, costing the state and federal government about 222 million dollars each year.⁸⁷ Furthermore, adolescent mothers were more likely to experience difficult pregnancies and give birth to babies with low birth weights. To care for a premature baby in the Neonatal Intensive Care Unit (NICU) cost Medicaid about \$1,500 each day and typically \$14,000 total. Critics claimed that these infants' early medical traumas often led to deficient development and supplementary education expenses for special needs.⁸⁸

Shortly after Norplant's FDA approval, Baltimore city officials created an initiative giving teenage students access to Norplant in their school-based health clinics. The measure focused on getting Norplant into majority minority public schools. Before the program was enacted, in their efforts to reduce teenage pregnancies, city officials had

⁸⁶ Maryland Congress. House and Senate. Ways and Means Committee. *Public Schools – Long-Term Contraceptives - Prohibition, Statement of Dr. Vanessa Cullins*, March 8, 1995; Peter L. Beilenson, Elizabeth S. Miola, and Mychelle Farmer, "Politics and Practice: Introducing Norplant into a School-Based Health Center in Baltimore," *American Journal of Public Health* 85:3 (March 1995): 309. "Baltimore's Norplant Consortium has Been Drawn National Attention," *The Baltimore Sun*, December 18, 1992, accessed on February 28, 2017, http://articles.baltimoresun.com/1992-12-18/news/1992353097_1_norplant-baltimore-school-system-contraceptive.

⁸⁷ Beilenson et al., "Politics and Practice" 309.

⁸⁸ Maryland Congress. House and Senate. Ways and Means Committee. *Public Schools – Long-Term Contraceptives - Prohibition, Statement of Dr. Vanessa Cullins*, March 8, 1995.

employed many tactics. City officials had placed health clinics in inner-city malls and offered teenagers an array of services, including family planning counseling for more than 5,000 adolescents each year. They also launched a citywide media campaign advocating abstinence. In the public schools, they organized male outreach activities and mandated sex education classes. Lastly, two of Baltimore's middle schools and six of its high schools offered family planning services in their healthcare centers. Some city officials claimed these citywide programs led to a stabilization of birth rates amongst teenagers. Yet in 1992, Baltimore still had some of the highest teenage pregnancy rates in the nation.⁸⁹

Clinicians staffing Baltimore's high school health centers were permitted to provide students with family planning counseling, exams, and vouchers that could be exchanged for birth control at an off-site pharmacy. This policy had been put into practice in 1985. Yet since many students failed to redeem their vouchers for contraceptives, in 1990, the health department began offering oral contraceptives, foams, and condoms in high school health centers. Surveys revealed that seventy-five percent of parents favored this policy.⁹⁰ In 1992, as a pilot trial, they added Norplant to the list of available contraceptives in one public school. While Baltimore's Health Commissioner, Peter Beilenson, claimed that a number of parents and students requested it, the decision can also be attributed to a privately funded grant.⁹¹ In 1992, the Abell Foundation, a Baltimore-based organization dedicated to financing health, education, and economic

⁸⁹ Beilenson et al., "Politics and Practice," 309.

⁹⁰ Beilenson et al., "Politics and Practice," 309-310.

⁹¹ Beilenson et al., "Politics and Practice," 309-310.

development ventures in the city, awarded Maryland's health department a \$200,000 grant to help the city of Baltimore introduce Norplant to low-income women who qualified for state-based medical assistance and lacked private insurance. Soon after, as a pilot test, they added Norplant to the list of available contraceptives in one public school.⁹²

The school chosen for this pilot trial was Laurence G. Paquin, a combined middle and high school that exclusively taught pregnant teens and girls who were already mothers.⁹³ Of Paquin's 350 female students, all but five were Black.⁹⁴ Despite these numbers, Dr. Beilenson avowed that the policies had no racial bias.⁹⁵ Baltimore's health officials said that they chose Paquin for two reasons. First, statistically, teenage mothers are at higher risk of becoming pregnant than their peers. Second, Paquin's African American principle, Dr. Rosetta Stith, was exceptionally supportive of the program. Stith, a Baltimore native, had a reputation as a strong supporter of both her teenage students as well as their young children.⁹⁶ She believed that many of her students, and teenage mothers in general, did not consider the consequences of having children because the environment they were raised in promoted dependence on welfare.⁹⁷ Stith affirmed that

⁹² "A Brief History," Abell Foundation, accessed on September 13, 2017, <http://www.abell.org/brief-history>; The Alan Guttmacher Institute, *Norplant: Special Report #2*, 5, box 197 folder 15: Cover Letters..., 1993-2005 Norplant, NWHNR, SSC.

⁹³ Beilenson et al., "Politics and Practice," 310.

⁹⁴ Roberts, *Killing the Black Body*, 114.

⁹⁵ Tamar Lewin, "Baltimore School Clinics to Offer Birth Control by Surgical Implant: Plan for Teen-Agers May Be First with Norplant," *New York Times*, December 4, 1992, A1.

⁹⁶ Fredrick M. Rasmussen, "Dr. Rosetta M.T. Stith, longtime head of Paquin Junior-Senior High School, dies" *The Baltimore Sun*, June 5, 2017, accessed on July 8, 2019, <https://www.baltimoresun.com/obituaries/bs-md-ob-rosetta-stith-20170605-story.html>.

⁹⁷ Karen De Witt, "Teen-Agers Split on Birth Control Plan: Baltimore Girls Consider a Contraceptive Implant," *New York Times*, December 5, 1993, 7.

her students enthusiastically supported the Norplant program, telling the *New York Times* that the students considered the implant an “advanced method that would let them go on with their lives without worrying about getting pregnant, or remembering to get their birth control prescription filled.”⁹⁸

As the public became increasingly aware of Baltimore’s Norplant program, a tense national debate broke out. This dispute uncovered a deep-seated divide within the African American community over the issue of sex. In the 1960s, Black psychologists Kenneth B. Clark argued that middle-class African American’s attitudes towards sex differed greatly from working-class African Americans, and this was particularly true for women. He contended that middle-class Black girls linked sex to their social status and ambitions for upward mobility. Conversely, working-class African American adolescents associated sex with pursuits of acceptance, affection, and love. Therefore, the dishonor often associated with children born out of wedlock was much more prevalent amongst middle-class African American populations. In the 1990s, sociologists William Julius Wilson attested that increases in joblessness in the nation’s inner-cities made Clark’s analysis of the connection between sex and social status even more pertinent.⁹⁹

The controversy surrounding Baltimore city officials’ decision to make Norplant available in public schools illuminated these sharp divides within the African American community. Some activists and organizations considered Baltimore’s program to be a

⁹⁸ Lewin, “Baltimore School Clinics to Offer Birth Control by Surgical Implant: Plan for Teen-Agers May Be First With Norplant,” A1.

⁹⁹ William Julius Wilson, *When Work Disappears: The World of the New Urban Poor*, (New York: Vintage Books: A Division of Random House, Inc., 1997), 108-110.

form of race-based population control linked to a long history of discrimination against Black mothers. Others, mostly middle and upper-class African Americans, insisted the program would aid young mothers as they worked toward completing their high school education.

The Nation of Islam (NOI) and its minister, Louis Farrakhan, opposed Baltimore's program and Norplant altogether. Historically, the NOI advocated for a racially segregated society, and its male leaders promoted strict gender norms and celebrated nuclear family units headed by Black men. The NOI promised to protect its female members and value their femininity with the expectation that they would comply with strict gender roles that were centered on child-rearing. While the vow of protection and security was alluring for many African American women, this agreement, as historian Ula Yvette Taylor demonstrates in her book *The Promise of Patriarchy*, led to gender relations built on a stringent hierarchy and subordination.¹⁰⁰ Because the NOI had long prioritized men's protection of Black women and racial purity, it strongly objected to any use of birth control and charging its female members with the task of reproduction.¹⁰¹ In the early 1990s, NOI representatives argued that Norplant was developed to "destroy" Black women and children and that Baltimore's policy was a premeditated attack on African Americans. Linking Baltimore's Norplant program to the

¹⁰⁰ Ula Yvette Taylor, *The Promise of Patriarchy: Women and the Nation of Islam*, (Chapel Hill: The University of North Carolina Press, 2017), 1-6.

¹⁰¹ Ula Yvette Taylor, *The Promise of Patriarchy: Women and the Nation of Islam*, (Chapel Hill: University of North Carolina Press, 2017).

U.S.'s history of discrimination against African Americans, Farrakhan called it genocide.¹⁰²

Alongside the NOI, the Clergy United for the Renewal of East Baltimore (CURE), an organization of African American ministers representing over 200 of Baltimore's Black churches, questioned the city's Norplant program.¹⁰³ They argued that white Americans should not be allowed to dictate African Americans' procreation.¹⁰⁴ CURE leader Rev. Melvin Tuggle pointed out white city officials' hypocrisy: "You know as well as I know that they wouldn't let their twelve-year-old girl get Norplant. And I know their daughters are just as sexually active as anybody else."¹⁰⁵

Conversely, Dr. Joycelyn Elders, Clinton's African American Surgeon General, supported Baltimore's attempts at decreasing the city's teenage pregnancy rates. Throughout her career, she fearlessly took on contentious issues, especially regarding sex and the spread of sexually transmitted diseases (STDs). Amid the AIDS epidemic, she ardently promoted condom use. Elders famously displayed a bouquet made of condom wrappers on her desk in Washington D.C. She also vehemently disagreed with abstinence-only sex education, even going so far as to encourage educators to teach

¹⁰² Martha F. Lee, *The Nation of Islam: An American Millenarian Movement*, (Syracuse: Syracuse University Press, 1996), 21. Roberts, *Killing the Black Body*, 114; Frank P. L. Somerville, "Louis Farrakhan to Preach Sunday in W. Baltimore," *The Baltimore Sun*, November 18, 1993, accessed on August 23, 2019, <https://www.baltimoresun.com/news/bs-xpm-1993-11-18-1993322008-story.html>; Paul W. Valentine, "In Baltimore, A Tumultuous Hearing on Norplant," *The Washington Post*, February 10, 1993, accessed on October 23, 2019, <https://www.washingtonpost.com/archive/local/1993/02/10/in-baltimore-a-tumultuous-hearing-on-norplant/298d0273-332e-4d1f-9624-5aadb3ec1efd/>.

¹⁰³ Roberts, *Killing the Black Body*, 114.

¹⁰⁴ Hilde Lindemann Nelson and James Lindemann Nelson, "Other 'Isms' Aren't Enough: Feminism, Social Policy, and Long-Acting Contraception," in *Coerced Contraception? Moral and Policy Challenges of Long-Acting Birth Control*, ed. Ellen H. Moskowitz and Bruce Jennings (Washington D.C.: Georgetown University Press, 1996), 164.

¹⁰⁵ Roberts, *Killing the Black Body*, 114.

young people about masturbation. While Elders political beliefs were often seen as controversial, her supporters commended her commitment to serving vulnerable populations.¹⁰⁶

During her tenure as Surgeon General, Elders made reducing teenage pregnancy a primary goal. Because she believed that much of the nation's poverty stemmed from teenage pregnancies, she unwaveringly advocated for efforts to lower unwanted pregnancy rates. Elder's dedication to the issue was reflected in her unapologetic and polarizing comments about Baltimore's Norplant program. "Black people don't want their children born to children," she said. Directly addressing African Americans who disagreed with the program, she asserted "whoever goes around talking about genocide is someone who likes to see people in slavery."¹⁰⁷

Reproductive rights organizations quickly joined the debate. Many feared that the program could gravely affect teenage patients' health. For instance, Maryland's Planned Parenthood argued that Norplant's many side effects, particularly the risk of excessive bleeding, made it a poor choice of birth control for teenage girls. Instead of making Norplant easily accessible to students who might make rash decisions, Planned Parenthood recommended educating high school students about Norplant, its benefits and

¹⁰⁶ Alexandra M. Lord, *Condom Nation: The U.S. Government's Sex Education Campaign from World War I to the Internet*, (Baltimore: The Johns Hopkins University Press, 2010), 1-3, 173-177. This comment, which she made during a hearing discussing the AIDS epidemic, led President Clinton to fire her in 1994.

¹⁰⁷ Roberts, *Killing the Black Body*, 115; "Baltimore, Maryland/ Teenage Pregnancy," *CBS Evening News*, February 9, 1993, VTNA. This controversial issue led to some unlikely bedfellows. For example, Maryland's Democratic governor, William Donald Schaefer, joined Elders in his support of the Norplant policy. The white governor had previously supported the use of birth control to manage welfare spending. In a 1993 speech, Schaefer suspected that many politicians shied away from issues involving population control: "There is a reluctance to push for an extreme step in birth control because of the concern of being called a racist or too radical."

drawbacks, and where, when, and how to get it.¹⁰⁸ The National Women's Health Network, the National Black Women's Health Project's (NBWHP), and national Planned Parenthood worried that supplying teens with Norplant would lead to an increase in STDs, and particularly AIDS, the fatal disease that was becoming increasingly common in the city, especially amongst African Americans.¹⁰⁹ In an appearance on the *Donahue Show*, Stith, Paquin's principle, directly responded to these critics, claiming that her students knew that they needed to use condoms along with hormonal contraceptives to prevent STDs. Countering the public perceptions of young Black poor women as promiscuous, she also emphasized that they did not see contraception as a "license for casual sex."¹¹⁰

Many Paquin students spoke out in support of the program, saying that Norplant would help them earn their diplomas. For instance, Consuela Law and Kimberly Lucas each had two children by the time they were nineteen. Both women chose to have Norplant inserted believing it would help them get to college and acquire good jobs.¹¹¹ "Without it I'd probably have more children," Law said. "I want to complete my education."¹¹² Another student featured in a *CBS Evening News* report addressed the critics who called Baltimore's program ethnic genocide. She told a reporter, "It is not a

¹⁰⁸ Tamar Lewin, "Baltimore School Clinics to Offer Birth Control by Surgical Implant: Plan for Teen-Agers May Be First with Norplant," *New York Times*, December 4, 1992, A1.

¹⁰⁹ "Sunday Cover (High School Birth Control)," *CBS Evening News*, January 10, 1993, VTNA.

¹¹⁰ "Donahue (Synd.)" WNBC-TV (NBC) Channel Four, New York City, NY, August 23, 1994, MC 748, Box 239 Folder 3: RHTP [program B&B] contraceptive- Norplant 1994, BHR, SL.

¹¹¹ Karen De Witt, "Teen-Agers Split on Birth Control Plan: Baltimore Girls Consider a Contraceptive Implant," *New York Times*, December 5, 1992, 7; "Sunday Cover (High School Birth Control)," *CBS Evening News*, January 10, 1993, VTNA.

¹¹² Pat Wingert, "The Norplant Debate," *Newsweek*, February 14, 1993, accessed on July 9, 2019, <https://www.newsweek.com/norplant-debate-195258>.

race thing, it is a pregnant thing.”¹¹³ Eleven of the estimated one hundred nonpregnant Paquin students had Norplant inserted during the first semester of the program.¹¹⁴

In 1993, the growing opposition to Baltimore’s decision to make Norplant available to students in their high school’s health clinic forced the city council to hold an open hearing. Approximately 300 people attended the emotionally-charged event that lasted more than six hours.¹¹⁵ The audience and speakers consisted of city council members, city officials, Paquin students, religious leaders, residents, and more than one hundred members of the NOI. Jamil Muhammad, a member of the NOI and Louis Farrakhan’s official representative, proclaimed, “I will not sit by and let my sisters and my children be destroyed by Norplant.”¹¹⁶ Carl Stokes, an African American city councilman, described the program as “a social and medical experiment on children.” Stokes accused the chairman of the hearing of cutting off individuals who testified against the program. Other opponents voiced concerns over the lack of protection Norplant provided against STDs and the drug’s insufficient testing.¹¹⁷

¹¹³ “Sunday Cover (High School Birth Control),” *CBS Evening News*, January 10, 1993, VTNA.

¹¹⁴ Peter L. Beilenson, Elizabeth S. Miola, and Mychelle Farmer, “Politics and Practice: Introducing Norplant into a School-Based Health Center in Baltimore,” *American Journal of Public Health*, Vol. 85, No. 3, March 1995, 310.

¹¹⁵ Sandy Banisky, “Councils Norplant Hearing Devolves into ‘Circus’ Political Bickering Mars 6-Hour Session” *The Baltimore Sun*, February 11, 1993, view on February 15, 2017, http://articles.baltimoresun.com/1993-02-11/news/1993042119_1_norplant-birth-control-health-commissioner. “Plan for Wider Use of Norplant by Girls Dividing Baltimore” *New York Times*, February 11, 1993, B16.

¹¹⁶ Paul W. Valentine, “In Baltimore, A Tumultuous Hearing on Norplant,” *The Washington Post*, February 10, 1993, (Accessed on February 22, 2017), https://www.washingtonpost.com/archive/local/1993/02/10/in-baltimore-a-tumultuous-hearing-on-norplant/298d0273-332e-4d1f-9624-5aadb3eclafd/?utm_term=.26105825a070.

¹¹⁷ Sarah Begus, “Contentious Contraception: Feminist Debate about the Use of Long-Acting Hormonal Contraception by Adolescent Urban Women,” *Daring to be Good: Essays in Feminist Ethico-Politics*, ed. Bat-Ami Bar On and Ann Ferguson, (New York: Routledge, 1998), 217. Sandy Banisky, “Councils Norplant Hearing Devolves into ‘Circus’ Political Bickering Mars 6-Hour Session” *The Baltimore Sun*,

Several Paquin students spoke out in favor of the program attesting that it had helped them regain stability and hope for their future.¹¹⁸ Beilenson also spoke up to defend the program, stressing that no student had or would be coerced into using Norplant.¹¹⁹ He along with the hearing's chairman accused their adversaries of using the program as a political platform to further their own agenda. The hearing was so contentious that it led Washington D.C.'s health commissioner to halt plans for a program that would have provided Norplant devices to as many as fifty young women living in low-income neighborhoods. Not wanting to cause a similar controversy, Washington D.C. officials ultimately chose not to implement the program.¹²⁰

Following the hearing, Baltimore's health officials closely monitored the program's impact on Paquin's student body. They contended that while some of the students experienced minor side effects, none chose to have their Norplant device removed. In addition, the post-insertion checkups revealed that most of the Norplant patients claimed to have increased their condom use, resulting in only one case of STD transmission. Officials attributed the increase in condom use to the counseling given both before and after each student received their implants.¹²¹

February 11, 1993, (Accessed on February 15, 2017), http://articles.baltimoresun.com/1993-02-11/news/1993042119_1_norplant-birth-control-health-commissioner.

¹¹⁸ "Baltimore, Maryland/ Teenage Pregnancy," *CBS Evening News*, February 9, 1993, Vanderbilt Television News Archive, Vanderbilt University, Nashville, Tennessee.

¹¹⁹ Paul W. Valentine, "In Baltimore, A Tumultuous Hearing on Norplant," *The Washington Post*, February 10, 1993, (Accessed on February 22, 2017), https://www.washingtonpost.com/archive/local/1993/02/10/in-baltimore-a-tumultuous-hearing-on-norplant/298d0273-332e-4d1f-9624-5aadb3ec1efd/?utm_term=.26105825a070.

¹²⁰ Paul W. Valentine, "In Baltimore, A Tumultuous Hearing on Norplant," *The Washington Post*, February 10, 1993, (Accessed on February 22, 2017), https://www.washingtonpost.com/archive/local/1993/02/10/in-baltimore-a-tumultuous-hearing-on-norplant/298d0273-332e-4d1f-9624-5aadb3ec1efd/?utm_term=.26105825a070.

¹²¹ Beilenson et al., "Politics and Practice," 310.

These initial successes motivated city officials to expand the program to five additional schools.¹²² Before implementing the programs, they spoke with Baltimore's prominent religious groups, a citywide community health advisory group, and local parents. They also made an effort to educate the schools' faculty and administrative staff. City officials gave a series of presentations to the students covering an array of related topics, including abstinence, Norplant, and other birth control options. Prioritizing student accessibility, City officials argued that school-based clinics were the ideal location for offering teenage girls birth control. By 1995, the city had expanded the program into three additional high schools with plans to enter more.¹²³ Evidence suggests that while some student users became staunch Norplant advocates, the number of teenage girls who chose to use it was low. It was not a popular choice in school clinics.¹²⁴

In 1995, Maryland's state senate entered the tense conversation surrounding Norplant. That year, four African American, Democratic state senators, Clarence Mitchell IV, Talmadge Branch, Anthony C. Muse, and Emmett C. Burns, Jr., introduced House Bill 511 (HB 511). The bill aimed to prohibit public school health clinics from

¹²² Debra Hanania-Freeman, "Norplant: Freedom of Choice or a Plan for Genocide," *Executive Intelligence Review*, May 14, 1993, 18; This source stated that the program was halted for a short time, but I have not found any other primary source that states that. The other sources I have consulted show a continuation of the program.

¹²³ Beilenson et al., "Politics and Practice," 310.

¹²⁴ Maryland Congress. House and Senate. Ways and Means Committee. *Public Schools – Long-Term Contraceptives - Prohibition, Statement of Dr. Vanessa Cullins*, March 8, 1995; Lord, *Condom Nation*, 2010; Jessica Fields, *Risky Lessons: Sex Education and Social Inequality*, (New Brunswick: Rutgers University Press, 2008); Alesha E. Doan and Jean Calterone Williams, *The Politics of Virginity: Abstinence in Sex Education*, (London: Praeger, 2008); Kristin Luker, *When Sex Goes to School: Warring Views on Sex-and Sex Education- Sing the Sixties*, (New York: W.W. Norton & Company, 2006). In an era when political conservatives and the Religious Right pushed to limit sex education to an abstinence-only narrative, Baltimore's Norplant program seemed highly unusual. But a closer examination of both programs' racialized histories demonstrates that the motivations pushing abstinence only sex education and Baltimore's Norplant program were based in ideologies and efforts to maintain white supremacy.

distributing any form of long-term contraceptives.¹²⁵ Before the state senate voted on the bill, community members, political and religious leaders, and specialists testified. Much of the discussion mirrored the debate that occurred around Baltimore's Norplant program, and many of the same organizations and political figures participated. For instance, the NOI strongly supported the bill, with one of their representatives arguing that Baltimore's Norplant program had exploited young African American women. "We, in the Black community, do not feel that we should be the perpetual guinea pigs...in some grand social experiment," he said.¹²⁶ Several community and medical leaders expressed opposition to the bill, fearing that HB 511 could lead to restrictions that would prohibit school-based clinics from prescribing or distributing any form of contraception. Dr. Vanessa Cullins, the Director of Reproductive Health for the city of Baltimore and the Director of Family Planning Services at John Hopkins' Bayview Center, stated that because the bill banned "long-term contraception," not specifically "Norplant," it had the potential to prohibit other contraceptive options prescribed in the schools.¹²⁷

A number of testimonies focused on how Baltimore's Norplant program saved taxpayers' dollars, issuing statements that presumed that public school students would

¹²⁵ *Testimony on House Bill 511*, Annapolis, MD: Maryland General Assembly Ways and Mean Committee, March 8, 1995.

¹²⁶ Dr. Adul Alim Muhammad, *Testimony on House Bill 511*, Annapolis, MD: Maryland General Assembly Ways and Mean Committee, February 15, 1993.

¹²⁷ Vanessa Cullins, M.D., *Testimony on House Bill 511*, Annapolis, MD: Maryland General Assembly Ways and Mean Committee, March 8, 1995; Genie L. Wessel, *Testimony on House Bill 511*, Annapolis, MD: Maryland General Assembly Ways and Mean Committee, March 8, 1995. Genie Wessel, the Acting Director of the Governor's Council on Adolescent Pregnancy and a registered nurse. Wessel emphasized the importance of school-based clinics for working-class families. For many students, she maintained, their school clinic was their only health care provider. Like Cullins, she feared that if HB 511 passed, it would inevitably affect school-based health clinics ability to provide other forms of birth control.

become welfare recipients.¹²⁸ For instance, Cullins's testimony stressed the state's financial costs associated with teenage pregnancy. She estimated that for each live birth the state paid \$5,832 in AFDC and food stamp costs and that teenage mothers would depend upon social programs for ten years. Cullins cited her study of teenage girls' birth control choices following a birth or abortion, which showed that girls who chose Norplant continued to use the device longer than others who chose alternative methods and were much less likely to become pregnant unintentionally.¹²⁹ Such arguments convinced many senators--HB 511 did not pass. This outcome allowed school-based clinics throughout the state to prescribe Norplant and other forms of long-term contraceptives to teenage girls. Further, Maryland's Congress introduced two more bills to prevent Norplant from being distributed in school-based health clinics but failed to pass either one.¹³⁰

In the 1990s, American judges, lawmakers, and community leaders tried to use Norplant to reduce the welfare state, curb teenage pregnancy, and temporarily sterilize women who used illegal drugs. These efforts were part of a wider assault on poor African American communities. Black men were the primary targets of the phenomenal growth of imprisonment that accompanied the War on Drugs on city streets. Some women of

¹²⁸ Sarah Begus, "Contentious Contraception: Feminist Debate about the Use of Long-Acting Hormonal Contraception by Adolescent Urban Women," in *Daring to be Good: Essays in Feminist Ethico-Politics*, ed. Bat-Ami Bar On and Ann Ferguson (New York: Routledge, 1998), 216.

¹²⁹ Cullins, M.D., *Testimony on House Bill 511*, March 8, 1995.

¹³⁰ Maryland Congress, House, *Baltimore City Public Schools - Norplant - Prohibition*, HB 436, 1996 Regular Session, introduced in House January 29, 1996, <http://mgaleg.maryland.gov/1996rs/bills/hb/HB0436f.pdf>; Maryland Congress, House, *Public Schools - Norplant (Levonorgestrel Implant) - Prohibition*, HB 354, 1997 Regular Session, introduced in House January 23, 1997, <http://mgaleg.maryland.gov/1997rs/bills/hb/HB0354F.pdf>.

color and indigenous women also got caught up in this dragnet, but they were more likely to be targeted through policies directed at their childrearing and procreation such as the elimination of welfare and the outcry about “crack babies.” Norplant was part of this gender-based assault on poor and minority people’s lives.

Feminists, and particularly feminists of color and indigenous feminists, fought back.

CHAPTER IV

THE U.S. WOMEN'S HEALTH MOVEMENT AGAINST NORPLANT

U.S. feminists began mobilizing against Norplant even before the drug came onto the market. They learned from and built upon the already existing activism in nations in the Global South like Bangladesh and Egypt and generated their own campaigns aimed at informing U.S. women about Norplant's risks and side effects and ending the coercive population control initiatives and policies surrounding implantation and removal. Feminists of color propelled the activism against Norplant in the U.S., and their campaigns were part of the rise in the reproductive justice movement that called for a more inclusive women's health agenda that included issues related to coercive sterilizations.

In 1990, when Norplant was approved for use in the U.S. by the Food and Drug Administration (FDA), Unnayan Bikalper Nitinirdharoni Gobeshona (UBINIG) and its allies in the Resistance Network responded quickly. They wrote letters to the U.S. Agency for International Development (USAID) and the FDA expressing their outrage that the agency would approve a provider controlled device that "by nature" was coercive. They challenged the drug's safety, arguing that the Norplant trials violated participants' human rights and their findings were based on insufficient research practices. Moreover, the Bangladeshi activists argued that Norplant's FDA approval held

weight globally, therefore, was problematic for both U.S. women and women around the world.¹

In addition to writing to government institutions, UBINIG shared their concerns with a number of U.S. women's health organizations. In the 1980s, they had built global communication networks largely through their participation in United Nations conferences and other international meetings. The networks and alliances formed at these conferences took cues from grassroots mobilizations in the Global South. Feminists working in these regions and transnationally expanded the idea of reproductive rights to portray a woman's reproductive needs throughout her life.²

As shown in the first chapter, these trends played out in the fight against Norplant, with women in the Global South leading the charge. During the 1980s, recognizing that international alliances would strengthen their efforts, organizations in the Global South, like UBINIG, reached out to other national and international women's organizations. Activists in Bangladesh first called upon groups with which they already had established relationships. For instance, in 1985, UBINIG asked the U.S. based National Women's Health Network (NWHN) for assistance because they had a connection with its current president, Sybil Shainwald. Shainwald, a lawyer, women's health activist, and member of the NWHN, had represented a group of Bangladeshi women in a case against the

¹ Jael Silliman, Marlene Gerber Fried, Loretta Ross, Elena R. Gutierrez eds., *Undivided Rights: Women of Color Organize for Reproductive Justice*, (Cambridge: South End Press, 2004); Farida Akhter, "Correspondence on Norplant Approval: Letter to US Agency for International Development," in *Resisting Norplant: Women's Struggle Against Coercion and Violence*, ed. Farida Akhter (Dhaka: Narigrantha Prabantana, 1995), 86; Akhter, "Correspondence on Norplant Approval: Letter to US Agency for International Development," 86-87.

² Rosalind Pollack Petchesky, *Global Prescriptions: Gendering Health and Human Rights*, (London: Zed Books, 2003), 1-5.

company that developed the Dalkon Shield (an intrauterine device (IUD) in the 1970s. Soon after it was discovered that the Dalkon Shield had caused eighteen deaths and hundreds of unintended sterilizations, women's health advocates like Shainwald used the U.S. court system to help victims in the U.S. and Bangladesh and warn women of the dangers associated with the contraceptive device. During these legal proceedings, Shainwald made valuable connections with women's health activists in Bangladesh, and these relationships continued after the lawsuits ended.³

Because of this long standing relationship, the NWHN was one of the first American women's health organizations to learn from UBINIG about the Norplant testing trials. UBINIG warned the NWHN of the many issues surrounding Norplant and asked them to join the international campaign to end the coercive policies.⁴ The NWHN was receptive; it was one of the first and most diverse women's health organizations, founded in 1975 in Washington D.C by a group of educated white middle-class women.⁵

³ Rainey Horwitz, "The Dalkon Shield," *Embryo Project Encyclopedia*, January 10, 2018, accessed on October 1, 2019, <http://embryo.asu.edu/handle/10776/13043>; Nicole J. Grant, *The Selling of Contraception: The Dalkon Shield Case, Sexuality, and Women's Autonomy*, (Columbus: Ohio State University Press, 1992), 37; Mary F. Hawkins, *Unshielded: The Human Cost of the Dalkon Shield*, (Toronto: University of Toronto Press, 1997).

⁴ Sybil Shainwald interview by Justina Licata, phone, February 18, 2019. Chapter four further investigates the class action suits on behalf of Dalkon Shield's victims and its connections to the legal action against Norplant.

⁵ Kelly Suzanne O'Donnell, "The Political is Personal: Barbara Seaman and the History of Women's Health Movement" Ph.D. diss., (Yale University, 2015), 56 and 135; Sandra Morgen, *Into Our Own Hands: The Women's Health Movement in the United States, 1969-1990*, (New Brunswick: Rutgers University Press), 26-29. In January 1970, Barbara Seaman, a feminist journalist focused on women's health issues, attended a special hearing to investigate the discoveries made about oral contraceptives' side effects. The hearings were response to a number of new medical findings, including Seaman's recent groundbreaking publication, *The Doctors' Case Against the Pill*, which reported on both the side effects caused by the Pill and doctors' reluctance to share this vital medical information with their patients. The hearings were abruptly interrupted by members of the D.C. Women's Liberation, a local feminist organization, who attended the hearings after reading about them in the newspaper. These women were appalled not only by the information they learned about the Pills side effects, but also by the fact that no women were testifying at the hearings. Intrigued by the women protesting and their message, Seaman introduced herself to the

Unlike other white-led organizations, the NWHN supported women of color and indigenous women activists from its inception. The organization prioritized a diverse board, which consisted of both individual members and other women's health organizations, and lent support to campaigns fighting against forced sterilizations targeted at minority women and medical racism's impact on improper and unethical prescribing practices.⁶ In 1985, its president, Sybil Shainwald, was keen on preventing the drug's FDA approval.

Since its founding, the NWHN had lobbied the FDA to properly investigate drugs and urged the medical industry to consider women's needs. The organization also often formed alliances with consumer groups and liberal politicians. Historian Kelly O'Donnell compared the NWHN's to a "consumer movement" because the organization made it a priority to alert the government and the public of drugs they considered unsafe and urged people to boycott.⁷

After UBINIG alerted them of the many problems with Norplant, the NWHN began their own investigation.⁸ They reached out to other women's organizations in the Global South and requested information from the FDA. In 1987, the NWHN issued their own report assessing Norplant's risks and side effects, and the concerns outlined in the

group of women, which included Aice Wolfson, who would later become a leading activist in the women's health movement. As Seaman continued to spread her knowledge about the risks associated with the Pill, she met women doing similar work, including Belita Cowan. In the late 1960s and early 1970s, Cowan challenged the medical industries belief that diethylstilbestrol (DES) was safe to use as an emergency contraceptive.

⁶ Silliman et al., *Undivided Rights*, 35; Wendy Kline, *Bodies of Knowledge: Sexuality, Reproduction, and Women's Health in the Second Wave*, (Chicago: University of Chicago Press, 2010), 112.

⁷ O'Donnell, "The Political is Personal," 16.

⁸ Letter to the FDA from Tracey Orloff, an intern for the NWHN, September 6, 1985, Box 175 Folder 1, NWHN, SSC.

report revealed UBINIG's influence.⁹ Much of the Network's concerns were related to Norplant link to population control policies and sterilization practices. The NWHN feared American healthcare providers, like the healthcare professionals that had conducted the trials, would abuse their power. They argued that it was likely that the provider-controlled drug would be used to curb pregnancies amongst minority and poor populations in the U.S. They were especially worried about women who did not have consistent and easy access to healthcare.¹⁰

Additionally, the NWHN's report extensively discussed Norplant's testing trials, shedding light on the significant and irregular side effects and risks associated with the contraceptive device and revealing the trials' many ethical violations. The organization discovered that a number of healthcare professionals had inappropriately implanted the device into adolescent girls along with pregnant and lactating women. They argued that in these cases, the healthcare professionals knowingly put women's lives in danger because they needed additional trial participants. The NWHN's report also pointed out that the trials' results failed to address a number of concerns, including Norplant's connections to ovarian cysts and ectopic pregnancies, how the drug affects pregnant women, and its long-term impact on women's fertility. Finally, To ensure Norplant's safety, they called for an investigation of all the deaths that occurred during the trials.¹¹

⁹ "Draft Norplant Position Paper," August 20, 1987, box 175 folder 1: Contraception Norplant 1985-1993, NWHNR, SSC.

¹⁰ "Draft Norplant Position Paper," August 20, 1987.

¹¹ "Draft Norplant Position Paper," August 20, 1987.

Two years later in 1989, the NWHN used this information to testify against Norplant's FDA approval. Loretta Ross, a reproductive justice activist and member of the National Black Women's Health Project (NBWHP), the NWHN, as well as the Director for Women of Color Programs for National Organization for Women (NOW), testified in front of the FDA's Fertility and Maternal Health Drug Advisory Committee.¹² In the late 1980s, the NBWHP, the first women's health organization dedicated to a single minority group and a former division of NWHN, was participating in a number of campaigns related to minority women's reproductive health, including early activism against Norplant. As a prominent member of both the NWHN and the NBWHP, Ross was chosen to present their arguments to the FDA. Her testimony highlighted concerns over Norplant's testing trials, safety, and especially its long-term effects on women's bodies. Furthermore, Ross pointed out that women of color and poor women would be at particular risk because they were more likely to have unreliable access to healthcare.¹³

¹² Loretta J. Ross interview by Joyce Follet, Voices of Feminism Oral History Project, SSC; Judy Norsigian, "Testimony on the Approval of Norplant as a Method of Birth Control Before the Fertility and Maternal Health Drugs Advisory Committee: The Food And Drug Administration," April 27, 1989, box 33 folder 4: "Contraceptive: Norplant," 1989, LJRP, SSC. Loretta Ross, a prominent African American women's rights activist, was motivated to fight for greater reproductive rights after an intrauterine device (IUD), called Dalkon Shield, sterilized her in the 1970s. Despite improper medical testing and a warning from the pharmaceutical company's top executives, A.H. Robins Corporation bought the Dalkon Shield with the intention of putting it on the American market. Although issues regarding patient's health arose, A. H. Robins continued to produce and distribute the IUD. The Dalkon Shield IUD caused over 200 septic abortions, which is a dangerous infection caused by an abortion or miscarriage, and eleven deaths in the 1970s. Investigations proved that A. H. Robins Corporation, the producer and distributor of the IUD, was aware that the Dalkon Corporation had inadequately tested the birth control device. In 1976, as a twenty-three year old woman, Ross was involuntarily sterilized by complications caused by the Dalkon Shield This experience led Ross to become one of the first African American woman to sue A. H. Robins inspiring other Dalkon Shield victims to also take legal action. It also led her to a life of activism fighting for reproductive rights, particularly for women of color and indigenous women.

¹³ Norsigian, "Testimony on the Approval of Norplant as a Method of Birth Control Before the Fertility and Maternal Health Drugs Advisory Committee: The Food And Drug Administration," 1989; "Testimony on the Approval of Norplant as a Method of Birth Control Before the Fertility and Maternal Health Drugs

Like the NWHN, the BWHBC, the women's health organization whose groundbreaking book, *Our Bodies, Ourselves*, changed the way women learned about their bodies, looked to the research and activism in foreign nations surrounding Norplant's testing trials to both form an opinion on the contraceptive device and build alliances with other women's health organizations.¹⁴ At the Sixth International Meeting on Women and Health in Manila in November 1990, the BWHBC along with other organizations from Bangladesh, Brazil, Canada, Cameroon, England, India, Mexico, the Netherlands, Nigeria, the Philippines, Thailand, and the U.S. encouraged population politics reforms in an official statement to USAID, a U.S. agency that assists in foreign nations' developments.¹⁵ In the statement, feminist activists shared their collective concerns over the coercive use of Norplant during the drug's trials and urged USAID to

Advisory Committee: The Food And Drug Administration," April 27, 1989, box 197 folder 15: Cover Letters..., 1993-2005 Norplant, NWHNR, SSC.

¹⁴ Kline, *Bodies of Knowledge*, 16-17. In 1969, twelve women attending a workshop titled "Women and Their Bodies" at a women's liberation conference at Emmanuel College in Boston discussed their shared aggravations and disappointments associated with visits to doctors' offices. Following the conference, the workshop participants continued meeting to discuss the issues. When they discovered they were unable to construct a list of OB/GYNs they felt listened to their patients' concerns, respected her position, and took the time to explain all procedures and medications, they decided that each member would research a topic about women's bodies that they had a personal interest in and then share their findings with the other group members and to other women living in Boston through a series of workshops. This initial group of participants, which would eventually become the BWHBC, continued to research and share more issues related to women's health, they decided to compile their work and publish 5,000 copies under the title, *Women and Our Bodies* in 1970. The following year, they changed the name to the now famed title, *Our Bodies, Ourselves*, and sold an additional 15,000 copies; Boston Women's Health Book Collective, *The New Our Bodies, Ourselves: Updated and Expanded for the '90s*, (New York: Simon & Schuster Inc., 1992), 288-292; The BWHBC's *Our Bodies, Ourselves* quickly became an essential tool for women to learn about their bodies and the male controlled medical industry in the 1970s. As the demand continued the BWHBC to publish an updated version of *Our Bodies, Ourselves* with a larger publisher, and the organization continues to this day to publish updated editions. The 1992 edition of *Our Bodies, Ourselves* demonstrated the BWHBC's complicated opinion of Norplant. Within the book's chapter on contraception, is an entire section dedicated to Norplant. This section details Norplant's risks, side effects, and high price, while also informing the reader of the ways the drug had been used to sterilize poor and minority women.

¹⁵ Betsy Hartmann (Population and Development Program Director) to Beverly Baker (NWHN Executive Director), March 14, 1991, box 175 folder 1: Contraceptive Norplant 1985-93, NWHNR, SSC.

take responsibility for establishing that all family planning programs focus on women's health rather than population demographics.¹⁶ Finally, the statement called on USAID to expand the funding of female barrier birth control methods, their distribution, and informative programs on their effectiveness rates.

Further, women of color and indigenous women reproductive justice activists also constructed multiple grassroots operations to combat the coercive use of Norplant. In the early 1990s, minority women's organizations developed the concept of reproductive justice to shed light on the illicit and unethical limits placed on minority women's bodies and to emphasize that the white women led reproductive rights movement neglected to address many discriminations affecting women of color and indigenous women. They believed in a comprehensive reproductive rights agenda that included access to reproductive healthcare, the right to affordable childcare and prenatal care, freedom from coercive sterilizations, and the right to have and raise healthy children, not just the right to safe and legal abortions.¹⁷ In the 1990s, reproductive justice activists centralized Norplant in their political agenda. While a number of reproductive justice organizations, including the NBWHP, the NLHO, and coalition groups like SisterSong, participated in the movement against Norplant, none were as extensive as NAWHERC's and its founder Charon Asetoyer's campaign.

¹⁶ "Women Attending the 6th Int'l Meeting on Women and Health (November 1990) and other Concerned Women," to Duff Gillespie, USAID, July 8, 1991, MC 503, box 23, folder 10: [Norplant: U.S. Aid and International Corr. and related], 1991-1997, BWHBCAR, SL.

¹⁷ Silliman et al., *Undivided Rights*, 4; Loretta J. Ross and Rickie Solinger, *Reproductive Justice: An Introduction*, (Oakland: University of California Press, 2017).

NAWHERC's campaign against the Indian Health Service's (IHS) use of Norplant was built upon decades of grassroots reproductive rights activism. Although the U.S. government created the IHS, the federal agency responsible for providing Native people living on reservations with free healthcare, to aid Native communities ravaged by centuries of violent oppressions, it often applied controls on Native peoples' personal sovereignties.¹⁸ For hundreds of years, NAWHERC argued, white supremacists and colonialists had used sexual violence against Native women to control Native populations and cement racial hierarchies.¹⁹ With European colonizers viewing Native people's bodies as dirty and overly sexualized, these beliefs were used to justify a long history of sexual violence, body and genitalia mutilation, and thousands of forced and coerced sterilizations.²⁰

In the 1960s and 1970s, the IHS sterilized Native women living on reservations at alarmingly high rates.²¹ The population control movement, which advocated for the use of sterilization to minimize additional population growth, inspired the IHS to fund a sterilization campaign that encouraged IHS healthcare providers to permanently sterilize their patients. Although centuries of genocide had already depleted Native populations, the IHS claimed their actions were warranted because Native women were having about

¹⁸ Jane Lawrence, "The Indian Health Service and the Sterilization of Native American Women," *The American Indian Quarterly*, Vol. 24, No. 3, Summer 2000, 401.

¹⁹ Andrea Smith *Conquest: Sexual Violence and American Indian Genocide*, (Brooklyn: South End Press, 2005), 15.

²⁰ Smith *Conquest*, 10.

²¹ Rebecca M. Kluchin, *Fit to be Tied: Sterilization and Reproductive Rights in America, 1950-1980* (New Brunswick: Rutgers University Press, 2011), 108.

twice as many children as the average white woman.²² Native activists conducted a study revealing that by 1975 the IHS sterilized 25,000 Native women. Pressure from Native peoples forced Congress to oversee a formal investigation of the IHS and its sterilization policies.²³ These investigations confirmed that many IHS personnel were not complying with proper informed consent regulations, including oral discussions, informative documents, and required waiting periods before procedures.²⁴ In response to the investigation, Congress passed the Indian Health Care Improvement Act in 1976, which gave tribes the right to chair and control IHS programs. While this act had some success, the Department of Health, Education, and Welfare did not audit IHS programs, making the act virtually unenforceable.²⁵ The government's lack of regulations compelled Native activists to monitor the IHS's treatment of Native communities.

Charon Asetoyer's decades of activism as a leader of the Native women's health movement prepared her to organize a campaign against Norplant.²⁶ Her participation in

²² Smith *Conquest*, 81; Lawrence, "The Indian Health Service and the Sterilization of Native American Women," 402.

²³ Lawrence, "The Indian Health Service and the Sterilization of Native American Women," 406.

²⁴ Lawrence, "The Indian Health Service and the Sterilization of Native American Women," 409.

²⁵ Lawrence, "The Indian Health Service and the Sterilization of Native American Women," 414-415; Mary Crow Dog, *Lakota Woman*, (New York: Harper Perennial, 1990), 78; Also in the 1960s and 1970s, Native women activists saw their decision to procreate as a valuable part of their activism and the continuation of their culture, traditions, and people. Their ability to have children was considered to be a "sacred" power, therefore many of them chose to not use contraceptive methods. In her memoir, Mary Crow Dog, a Lakota woman and member of the activist organization, American Indian Movement (AIM), reflected on her and other Native women's decision to reject all contraceptives, "Birth control went against our beliefs. We felt there were not enough Indians left to suit us. The more future warriors we brought into the world, the better." Later in her work, she explain why this was so necessary to the survival of her culture and community, "Like many other Native American women, particularly those who had been in AIM, I had an urge to procreate, as if driven by a feeling that I, personally, had to make up for the genocide suffered by our people in the past."

²⁶ Jennifer Nelson, *More than Medicine: A History of the Feminist Women's Health Movement*, (New York: New York University Press, 2015), 199; Asetoyer, whose mother was of Comanche descent, grew up in East San Jose, California in the 1950s and early 1960s. As a child, Asetoyer knew only a few other Native people. In an interview she remarked upon her childhood, "the neighborhood was mostly African

the Native led occupation of Alcatraz in 1969 “intensified” her political awareness and for the first time, linked her activism to her Native heritage and culture.²⁷ It marked a turning point in her activist career and motivated her move to South Dakota to be closer to other Native people. In the mid-1980s, she worked on a project for Women of All Red Nations (WARN), the female entity within AIM, an organization active in the 1970s and 1980s that was committed to protecting Natives’ cultural identity. Working with WARN, strongly influenced Asetoyer’s activism and political philosophy.²⁸ This program focused on education on topics such as Fetal Alcohol Syndrome (FAS), defects and developmental issues affecting children whose mothers consumed alcohol while pregnant, and nutrition.²⁹ After working with WARN for several years, she became frustrated with the leadership and the organization’s mismanagement of resources. Therefore in 1985, Asetoyer and her second husband started the Native American

American, Latina, low-income white people, and I am pretty sure I was the only Native American in the school.” When she was in high school, a counselor discouraged her from continuing her education, telling her to, “forget any dreams you may have—there is nothing out there for you as a Native-American woman.” In the mid-1960s, Asetoyer dropped out of high school during her junior year to begin a dress business in San Francisco. Her store, which was located on Haight Street, sold “hippie and Native American flair” dresses. She also became involved in the political and anti-war protests sweeping the Haight-Ashbury neighborhood.

²⁷ Charon Asetoyer interview by Joyce Follet, Voices of Feminism Oral History Project, Sophia Smith Collection, Smith College, Northampton, MA 01063, 21-22; Asetoyer’s experiences with domestic violence informed her eventual involvement in the women’s movement. While living in San Francisco, she married a jazz musician of Native and African American descent. Not long into the marriage, her husband became “extremely” physically abusive. After several violent incidents, Asetoyer, with the support of her immediate family, moved to South Dakota and enrolled at the university, eventually earning both a bachelor’s and a master’s degree. While in school, she became close friends with a fellow student who was completing her master’s degree while also raising nine children. Despite their close relationship, for a long time Asetoyer did not know about the abuse she endured. Unfortunately, her friend’s husband tragically murdered her. These experiences greatly impacted Asetoyer’s life and motivated her to fight for women.

²⁸ Silliman et al., *Undivided Rights*, 110.

²⁹ Charon Asetoyer interview by Joyce Follet, Voices of Feminism Oral History Project, Sophia Smith Collection, Smith College, Northampton, MA 01063, 25; “Fetal Alcohol Syndrome,” *Kids Health by Nemours*, August 2016, accessed on March 30, 2018, <https://kidshealth.org/en/parents/fas.html>.

Community Board (NACB).³⁰ Initially, the NACB focused on FAS and its impact on their local community.³¹ Because there was a severe lack of knowledge surrounding alcohol use, especially during pregnancy, the NACB placed much of its efforts on informing Native women of the potential risks.³² Additionally, the organization aided women suffering from chemical and alcohol dependency by providing access to better resources, services, and treatments for both women and their children.³³

During the 1980s, Asetoyer saw women of color begin to form their own health organizations, the first being the NBWHP in 1984. This energized other women of color to do the same, and in 1987, at a NWHN conference, many people encouraged Asetoyer to start her own group. With their financial support, she was able to purchase a house in South Dakota to act as a main office and resource center.³⁴ The following year, she founded NAWHERC, an organization dedicated to Native women's health and empowerment.³⁵

From the start, Asetoyer prioritized coalition building amongst Native women across Native communities. She along with her fellow NACB members, identified Native women from a number of Plains tribes to be NAWHERC's leading representatives. These activists were invited to discuss reproductive health issues facing Native women,

³⁰ Silliman et al., *Undivided Rights*, 144; Charon Asetoyer interview by Joyce Follet, Voices of Feminism Oral History Project, Sophia Smith Collection, Smith College, Northampton, MA 01063, 27.

³¹ Charon Asetoyer interview by Joyce Follet, Voices of Feminism Oral History Project, Sophia Smith Collection, Smith College, Northampton, MA 01063, 27.

³² Charon Asetoyer interview by Justina Licata and Hannah Dudley-Shotwell, phone, September 29, 2017.

³³ Charon Asetoyer interview by Joyce Follet, Voices of Feminism Oral History Project, Sophia Smith Collection, Smith College, Northampton, MA 01063, 27.

³⁴ Morgen, *Into Our Own Hands*, 61.

³⁵ Silliman et al., *Undivided Rights*, 144.

particularly women living on reservations who relied upon the IHS, the federal agency responsible for providing Native people living on reservations with free healthcare. Networking across tribal communities became crucial to the growth and spread of NAWHERC, while also aiding isolated Native women living on rural reservations. NAWHERC used these connections to empower women with knowledge and the right to make decisions about their health and bodies.³⁶ NAWHERC's early programming covered an array of topics, including AIDS prevention, domestic violence, child development, cancer prevention, FAS, nutrition, scholarship for Native Americans, and reproductive rights and health issues.³⁷

While Asetoyer focused on her community, she also participated in the national women's movement as a member of the NWHN. Working alongside other professional activists at a national organization provided her with connections and alliances that would later play an important role in the reproductive justice campaign against Norplant.³⁸ In the early and mid-1980s, for instance, the NWHN and NBWHP organized a campaign against Depo-Provera, a method of birth control that involves injecting a woman with hormones every three months. Before the drug was FDA approved, the NWHN charged that the injectable contraceptive was a “massive experiment” that could be detrimental to many women. The organization created a registry of 529 women who had used Depo-Provera during its testing trials, recording the side effects they experienced, including

³⁶ Charon Asetoyer interview by Joyce Follet, Voices of Feminism Oral History Project, Sophia Smith Collection, Smith College, Northampton, MA 01063, 52-53.

³⁷ Morgen, *Into Our Own Hands*, 62.

³⁸ Charon Asetoyer interview by Joyce Follet, Voices of Feminism Oral History Project, Sophia Smith Collection, Smith College, Northampton, MA 01063, 28-31; “Charon Asetoyer: Bio,” Women’s Media Center, accessed on March 29, 2018, <http://www.womensmediacenter.com/profile/charon-asetoyer>.

depression, irregular menstruation, and breast tumors.³⁹ Publicizing these first-hand accounts in the media, and particularly in women's magazines, the NWHN urged the FDA to not approve Depo-Provera. As a member of the NWHN, Asetoyer celebrated with her colleagues in October 1984, when the FDA denied its approval.⁴⁰ This experience gave Asetoyer the skills to speak out against Depo-Provera later when its eventual approval led to tremendous suffering amongst Native women users. Further, Asetoyer's participation in the campaign against Depo-Provera prepared her to respond swiftly to the FDA's Norplant approval in 1990.⁴¹

In the early 1990s when NAWHERC first heard that IHS practitioners were prescribing Norplant to Native women, its members sprang into action. The organization immediately began an investigation of the drug's development, testing trials, and the IHS's use of it. While their early research focused on IHS facilities in South Dakota, NAWHERC quickly expanded their study to also examine Alaska, Arizona, North Dakota, New Mexico, and South Dakota. To learn about the IHS's prescribing practices and their Norplant protocols, NAWHERC interviewed healthcare professionals and social service agents, some of whom worked at IHS hospitals and clinics, while also collecting dozens of anonymous surveys from Native Norplant users.⁴² In addition, the organization looked at other women's health organizations' campaigns opposing Norplant's FDA

³⁹ Kline, *Bodies of Knowledge*, 103.

⁴⁰ Kline, *Bodies of Knowledge*, 112, 123.

⁴¹ Nelson, *More than Medicine*, 199; Charon Asetoyer interview by Licata and Dudley-Shotwell, September 29, 2017.

⁴² "Tim Giago," *Huffington Post*, accessed on January 30, 2018, <https://www.huffingtonpost.com/author/tim-giago>. NAWHERC used an advertisement in the *Lakota Times*, the largest independent Indian newspaper distributed in South Dakota's Pine Ridge Reservation, to call on women who were currently using or had used Norplant to complete a survey.

approval, scientific research that led to Norplant's development, and reports about the drug's testing trials in Bangladesh, Sri Lanka, and Nigeria.⁴³

Following their investigation, NAWHERC produced two reports laying out their findings. First, in 1992, they released "The Impact of Norplant in the Native American Community," a report that documented how the IHS's misused Norplant on reservations. Later in 1994, after discovering that the federal government had no national statistics on the IHS's use of Norplant because the government deemed this data unnecessary, NAWHERC published a second study that examined both Norplant and Depo-Provera. These reports traced the drug's development, testing trials, and FDA approval, while placing particular focus on the IHS's lack of Norplant protocols, the ways in which the federal agency unethically prescribed Norplant to vulnerable Native women, and lastly, how it was a poor choice of birth control for many Native women. Asetoyer and her organization used their investigation to inform Native women of Norplant's risks while also attempting to bridge the gap between the IHS and the Native communities they served.⁴⁴ Finally, the reports challenged IHS practitioners to rethink their contraceptive prescribing protocol and encouraged the federal agency to control both Norplant and Depo-Provera like it did surgical sterilizations.⁴⁵

⁴³ Natasha Lewry and Charon Asetoyer, "The Impact of Norplant in the Native American Community," (Lake Andes: Native American Women's Health Education Resources Center: A Project of the Native American Community Board, June 1992), 3, 43-45.

⁴⁴ Lewry et al., "The Impact of Norplant in the Native American Community," ii.

⁴⁵ Smith *Conquest* 94; Lin Krust and Charon Asetoyer, "A Study of the Use of Depo-Provera and Norplant by the Indian Health Services (Revised)," (Lake Andes: Native American Women's Health Education Resources Center: A Project of the Native American Community Board, July 1993), 15.

Both reports focused heavily on the IHS's failure to establish specific guidelines to secure informed consent from every Norplant patient. The idea of informed consent dates back to the Nuremberg Trials, with many scholars considering the Nuremberg Code of 1947 to be the initial authoritative statement of consent stipulations in biomedical ethics. The code was created in response to the heinous mistreatment of humans during the Holocaust, and more specifically the Nazi's use of "medical research" to justify abuse. The code asserted that the voluntary consent of human subjects participating in any research is indispensable. Despite the Nuremberg Trials' strong emphasis on the importance of informed consent, in the decades following, the medical field frequently ignored the practice of properly securing consent. During the 1960s and 1970s, U.S. feminists brought the idea back into circulation. In their definition of informed consent, feminists centralized patients' needs. They argued that to properly secure a patient's consent, healthcare practitioners must provide each patient with all pertinent information and options, and while they believe in thorough counseling, feminists argued that patients should not be coerced during counseling sessions, but instead empowered to make their own decision.⁴⁶ Many women's health feminist critiques of Norplant published in the late 1980s and early 1990s focused heavily on the issue of informed consent.

Because the IHS lacked a standard procedure to ensure informed consent, Native women received inconsistent information and counseling before their insertion procedure. While all of the Norplant patients NAWHERC surveyed had some form of counseling,

⁴⁶ Neil C. Manson and Onora O'Neill, *Rethinking Informed Consent in Bioethics*, (Cambridge: Cambridge University Press, 2007), 2-3.

their experiences varied dramatically. Most IHS providers supplied patients with either an informative pamphlet or video, but few discuss Norplant's risks and side effects specific to their patient's medical history before implanting the device.⁴⁷ In addition, NAWHERC discovered that many IHS facilities relied solely on Wyeth-Ayerst's, Norplant's U.S. distributor, informative pamphlets and videos to advise their patients.⁴⁸ They argued that these biased sources created misconceptions about the drug's safety. For example, although Norplant was less effective in patients weighing over 155 pounds, Wyeth-Ayerst's informative video included an overweight woman pleased with her Norplant implant.⁴⁹ Based on this discrepancy, NAWHERC reasoned that the video "might do more harm than good."⁵⁰

Many of the IHS's healthcare professionals prescribing Norplant were not well-versed in Norplant's risks and side effects. This was particularly true when it came to prescribing the drug to teenage girls. Richard L. Larson's, a doctor at the IHS hospital in Belcourt, North Dakota and a member of the Turtle Mountain Chippewa Tribe, questionnaire demonstrated his dedication to serving his Native community and his propensity to believe his female patients.⁵¹ In fact, Larson had performed four removals,

⁴⁷ Lewry "The Impact of Norplant in the Native American Community" 29.

⁴⁸ Krust et al., "A Study of the Use of Depo-Provera and Norplant by the Indian Health Services (Revised)," 13.

⁴⁹ Lewry "The Impact of Norplant in the Native American Community" 29.

⁵⁰ Lewry "The Impact of Norplant in the Native American Community" 29.

⁵¹ "Dr. Richard Larson selected as Indian Health Service National Council of Clinical Director's 'Physician of the Year'" *Family Medicine Quarterly* 32:1 (Spring 2006): 5, accessed on June 20, 2017, <https://www.ndafp.org/image/cache/Spring2006.pdf>; "Larson Named IHS Physician of the Year," *North Dakota Medicine: University of North Dakota School of Medicine and Health Science* 31:2 (Spring 2006): 22, accessed on June 20, 2017, <http://www.med.und.edu/nd-medicine/files/docs/spring-2006.pdf>. Larson typically worked weekends to train EMTs. His mentorship of younger healthcare professionals and the long hours spent caring for his patients led him to be awarded the IHS Physician of the Year in 2006.

all on women who had their Norplant device inserted at other clinics showing his willingness to remove the device upon a patient's request. Despite Larson's commitment to his patients, he was unaware of Norplant's insufficient testing trials. When asked what population he most often recommended Norplant to, he responded, "especially single teenage women, age 15-19." This answer shows that Larson did not know that the drug's testing trials failed to examine Norplant's impact on adolescent girls' health.⁵² Furthermore, an interview with an OB/GYN working at the IHS facility on the Rosebud Reservation revealed that although the government required informed consent paperwork when a doctor prescribed Norplant to a teenage patient, the IHS did not mandate informative counseling.⁵³

The IHS's inconsistent policies resulted in IHS providers inserting Norplant into patients who had high medical risks.⁵⁴ For instance, IHS practitioners implanted two women from the Rosebud reservation with family histories of breast cancer, despite Wyeth-Ayerst's recommendation to avoid prescribing Norplant to patients at risk for that type of cancer. When activists questioned the patients, neither woman recalled being informed of the potential dangers.⁵⁵ And even though the IHS required women to undergo a pregnancy test and sign a written consent form before Norplant was inserted,

⁵² Richard L. Larson and NAWHERC, "Norplant Questionnaire," box 21 folder 19: "A Study of the Use of Depo-Provera and Norplant by the IHS." Questionnaires Naomi Sunshine, Spring 1993, NAWHERCR, SSC.

⁵³ Dr. Heffron interview by Native American Women's Health Education Resource Center Records, box 20 folder 14: "The Impact of Norplant in the Native Community," Interviews, Spring 1992, NAWHERCR, SSC.

⁵⁴ "Native American Women Uncover Norplant Abuses" *Ms. Magazine*, September 1993 69.

⁵⁵ "Native American Women Uncover Norplant Abuses," 69.

NAWHERC found that many women were not given a pregnancy test and that the IHS assumed that a woman's presence at the clinic was an indication of her consent.⁵⁶

NAWHERC also discovered that the lack of strict procedures and protocols allowed IHS doctors to coerce women with addictions into temporary sterilization rather than treating their dependency issues.⁵⁷ For decades, popular culture and conservative governmental policies linked poor minority women to substance abuse. The criminalization of African American, Latina, and Native women not only led to inaccurate perceptions of drug use amongst this community, but it also disregarded the need for more rehabilitation services. Native people living on reservations struggled with alcoholism at higher rates than other American women.⁵⁸ In fact, in the early 1990s, the mortality rates of Native women between the ages of twenty-five and thirty-four were ten times higher than the national average. Many Native women used alcohol to cope with the harshness of life and traumas such as rape and sexual assault.⁵⁹ Due to poor education, many Native women were unaware of alcohol's negative effects on unborn children.⁶⁰ Instead of investing in rehabilitation and education, some IHS professionals saw Norplant as a simple answer to this complicated issue. Ann Holmes, a nurse at the University Physicians at Sioux Falls, advocated prescribing Norplant to women addicted to drugs in order to prevent them from a "pregnancy that could be complicated severely

⁵⁶ Jennifer McGuire, "Cheyenne Tribe Objects To Use of Two Birth-control Devices: Tribal Council Seeks Ban by December," *Sun Sentinel*, July 25, 1996, accessed on December 3, 2019, http://articles.sun-sentinel.com/1996-07-25/news/9607250134_1_depo-provera-norplant-birth-control.

⁵⁷ Charon Asetoyer interview by Joyce Follet, Voices of Feminism Oral History Project, Sophia Smith Collection, Smith College, Northampton, MA 01063, 34.

⁵⁸ Smith *Conquest*, 116.

⁵⁹ Silliman et al., *Undivided Rights*, 145.

⁶⁰ Charon Asetoyer interviewed by Licata and Dudley-Shotwell, September 29, 2017.

by their addiction.” By “protecting” these women, Holmes asserted, medical professionals preserved “another person from the addiction as well.”⁶¹ “We have to think about controlling an epidemic,” Holmes explained; “we are not harming these women in any way. Its [*sic*] not like we are sterilizing them...”⁶²

In addition, Native populations were at high risk for health issues that contradicted Norplant’s use. Citing Wyeth-Ayerst Laboratories’ research and informative pamphlets, NAWHERC warned that Norplant was unsafe for women with acute liver disease, noncancerous or cancerous liver tumors, unexplained vaginal bleeding, breast cancer, and blood clots in the legs. Moreover, any woman on Norplant with diabetes, high blood pressure, gallbladder, heart, or kidney disease, a history of scanty or irregular periods, as well as smokers could be at risk and required frequent monitoring.⁶³ Because Native women suffered from many of these health issues, including diabetes and high blood pressure, at higher rates, Norplant was a poor choice of birth control for much of the population that the IHS treated. Accordingly, NAWHERC’s patient surveys showed that many Native women were unhappy with the contraceptive device. They experienced a number of unpleasant side effects, including headaches, tenderness at the place of

⁶¹ Ann Holmes (Mulkey) interview by NAWHER, box 20 folder 14: “The Impact of Norplant in the Native Community,” Interviews, Spring 1992, NAWHERCR, SSC.

⁶² Ann Holmes (Mulkey) interview by NAWHER, box 20 folder 14: “The Impact of Norplant in the Native Community,” Interviews, Spring 1992, NAWHERCR, SSC.

⁶³ Lewry et al., “The Impact of Norplant in the Native American Community,” 5; Wyeth-Ayerst Laboratories, *Norplant System Levonorgestrel Implants*, box Ch 43 folder Choices: Norplant Information and policies, 1991-1994 HMP, SBC.

insertion, mood swings, and significant bleeding.⁶⁴ These issues led many to request an early removal.⁶⁵

Like thousands of women across the nation, Native women also experience painful and botched insertion and removal procedures. Although Wyeth-Ayerst claimed the device could be simply inserted and removed, NAWHERC's interviews with healthcare professionals revealed that many found the training to be shockingly inadequate.⁶⁶ The insufficient training resulted in countless healthcare practitioners inserting the implants too far under the skin's surface, causing an easy removal procedure that should have taken about fifteen to twenty minutes to be a very painful operation that sometimes lasted more than an hour and often left serious scarring.⁶⁷

As an organization birthed as reproductive justice was coming to prominence, NAWHERC's investigation of Norplant was part of the crucial expansion of reproductive rights to look beyond access to contraceptives and legal abortions. In their effort to share their research, NAWHERC distributed both reports to Native women, other women's health and reproductive rights organizations, the IHS, policymakers and legislators, the United Nations' Permanent Forum of Indigenous People, and population control conferences, including the international conference in Cairo in 1994.⁶⁸ The reports

⁶⁴ "Norplant Questionnaire," (for patients) NAWHERC, NAWHERCR, box 20 folder 15: Norplant Project interviews Tiaya Miles, fall 1992, NAWHERCR, SSC.

⁶⁵ Karen Hawkins, "'The Shot' in Indian Country," *Albion Monitor*, May 5, 1996, accessed on June 20, 2017, <http://www.monitor.net/monitor/controlled/bc-native.html>.

⁶⁶ Lewry et al., "The Impact of Norplant in the Native American Community," 22.

⁶⁷ Lewry et al., "The Impact of Norplant in the Native American Community," 22.

⁶⁸ Charon Asetoyer interview by Justina Licata, phone, May 2, 2018.

informed readers about the risks, side effects, and sterilization practices associated with Norplant.

NAWHERC also used their reports to lobby the IHS to adjust their protocols and procedures. In February 1993, the IHS dedicated much of its monthly newsletter, *The IHS Primary Care Provider*, to Norplant and the proper way of prescribing the birth control device. The newsletter, which is distributed to IHS's healthcare providers across the U.S., supplies IHS practitioners with important information and advancements in the healthcare industry particularly related to American Indian and Alaska Native populations.⁶⁹

Clinical nurses, OB/GYNs, and family physicians contributed articles to this issue, and it included copies of proper Norplant treatment protocol and consent forms. Although the newsletter did not mention NAWHERC or their reports, it is seemingly a direct response to the feminist organization's campaign. For instance, it addressed the IHS's informed consent policies and procedures. One article urges providers to "avoid the trap of seeing this new technology as a panacea for all problems having to do with an unintended pregnancy."⁷⁰ Further, because of Norplant's common side effects and risks, they implored IHS providers to rigorously screen and counsel patients before prescribing Norplant.⁷¹ To implement good counselling practices, they encouraged providers to follow a pre-insertion, insertion, and post-insertion process, and to become

⁶⁹ "Primary Care Provider Newsletter," Indian Health Service: The Federal Health Program for American Indians and Alaska Natives, accessed on April 20, 2018, <https://www.ihs.gov/provider/>.

⁷⁰ William L. Dienst, Jr. and Louis Billedeaux, "Subdermal Contraceptive Implants in the IHS: The Crow Service Unit Experience," *The IHS Primary Care Provider* 18:2 (February 1993): 21, box 175 folder 1: Contraception Norplant 1985-1993, NWHNR, SSC.

⁷¹ William L. Dienst, Jr. and Louis Billedeaux, "Subdermal Contraceptive Implants in the IHS: The Crow Service Unit Experience," *The IHS Primary Care Provider* 18:2 (February 1993): 21, box 175 folder 1: Contraception Norplant 1985-1993, NWHNR, SSC.

“knowledgeable providers” because improved counseling would “help maximize the continuation rate (and cost-effectiveness) of Norplant.”⁷² While the IHS was promoting better patient counseling, the agency’s newsletter also advocated for more “cost-effective” prescribing habits. The IHS noted that removing so many Norplant devices before their five year expiration marks was becoming costly.⁷³

⁷² Michael D. Brown, “Norplant: The Newest Reversible Contraceptive” *The IHS Primary Care Provider* 18:2 (February 1993): 18, box 175 folder 1: Contraception Norplant 1985-1993, NWHNR, SSC; William L. Dienst, Jr. and Louis Billedeaux, “Subdermal Contraceptive Implants in the IHS: The Crow Service Unit Experience,” *The IHS Primary Care Provider* 18:2 (February 1993): 31, box 175 folder 1: Contraception Norplant 1985-1993, NWHNR, SSC.

⁷³ Michael D. Brown, “Norplant: The Newest Reversible Contraceptive” *The IHS Primary Care Provider* 18:2 (February 1993): 31, box 175 folder 1: Contraception Norplant 1985-1993, NWHNR, SSC; Jacqueline Darroch Forrest and Lisa Kaeser, “Questions of Balance: Issues Emerging from the Introduction of Norplant,” *Family Planning Perspectives* 25:3 (June 1993), box 175 folder 1: Contraception Norplant 1985-1993, NWHNR, SSC; Smith College, Northampton, Massachusetts; Julia R. Scott., “Norplant and Women of Color,” in *Dimensions of New Contraceptives: Norplant and Poor Women* edited by Sarah E. Samuels and Mark D. Smith, (Menlo Park: The Kaiser Forums, 1992), 43-44; *The Kaiser Family Foundation*, November 1991, box 8 (Unprocessed) BWHIR, SSC. Other women of color organizations looked to NAWHERC’s thorough research to understand the way Norplant could endanger other populations of women. For example, NBWHP disseminated information to Black women about how the government used Norplant to discourage women living in poverty from having additional children while simultaneously faulting authorities for not providing more access to Norplant for working class women. Unlike NAWHERC, who believed Norplant was too dangerous for Native women to use, the NBWHP was both concerned that the contraceptive device would be used to forcibly sterilize Black women and that Black women who were interested in using Norplant would not have access to it because of its high price. Therefore, the organization’s early 1990s literature published in their newsletter, called *Vital Signs*, emphasized the fact that a woman’s health insurance or public assistance grant controlled her ability to access a range of contraceptives. Women living in poverty struggled to gain access to Norplant because of its high price, which was about three hundred to five hundred dollars for the implant and an additional one hundred fifty to two hundred dollars for the removal. In the early 1990s, the desire for Norplant was so high, many family planning clinics that catered to the poor communities could not afford enough Norplant kits to meet their patients demands. At the same time, the NBWHP’s discovered that although Medicaid in all fifty states and Washington D.C. covered the cost to have Norplant inserted, many women struggled to have the device removed if it caused any contraindications because a number of states refused to pay for early removals. This meant that a woman suffering from side effects caused by Norplant was required to either scrounge together the funds to pay for the removal herself or continue to suffer for five years. Additionally, Luz Alvarez Martinez, a founding member of the NLHO, argued that Norplant appealed to poor women not because it was safe or effective but because Medicaid patients could obtain it for free or a low cost. Therefore, she saw the government forcing poor women to pay for other forms of contraceptives, but have Norplant implanted for free as a subtle form of coercion that was often overlooked. Martinez and the NLHO pointed out that because all fifty states’ Medicaid services covered Norplant insertion, Medicaid recipients were sixteen times more likely to choose Norplant over other forms of contraception. In 1992, California Medicaid allotted five million dollars for Norplant kits alone, an amount higher than the state had ever spent on other forms of birth control. Martinez feared that because Norplant was so accessible to

Asetoyer joined feminists from around the world in putting Norplant on the international feminist reproductive health agenda. By the mid-1990s, a coalition of globally-minded women's health activists were attending UN conferences to call for significant population policy reforms. Rejecting ideas about "population control" that held that reducing pregnancies and births would alleviate poverty, they argued that family planning services should be geared towards providing women with greater autonomy over their bodies and reproduction.⁷⁴ The global feminist coalitions preparing for the 1994 International Conference on Population and Development (ICPD) in Cairo used their common experiences with Norplant to call attention to state sanctioned sterilizations and to push for more funding for patient-controlled contraceptive research.⁷⁵

Leading up to the international conference, a number of prominent U.S. reproductive justice activists formed The U.S. Women of Color Delegation to the International Conference on Population and Development to prepare their agenda. As a delegate member, Asetoyer worked alongside African American, Asian American, Latin American, and other indigenous women to construct a platform focused on reforming population politics to better serve women and their reproductive needs. State-sanctioned sterilizations targeted at poor and minority women were the centerpiece of their platform.

poor women, they would look past the devices risks and side effects. Martinez and her organization demonstrated that while it seemed like the government was allowing women to choose their birth control, giving women Norplant for free and forcing them to pay for other forms of contraceptives was a subtle form of coercion.

⁷⁴ James G. Connell, III, "Norplant and the New Paradigm of International Population Policy," *Wm. & Mary J. Woman & L.* 2:1 (1995): 101, accessed on May 2, 2018, <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1285&context=wmjowl>.

⁷⁵ The U.S. Women Of Color Delegation To The International Conference On Population And Development, "Executive Summary: Statement On Poverty, Development, And Population Activities," September 1994, 1-3, box 3 folder 8: ICPD, U.S. Women of Color Delegation, 1993-1994, CAR, SSC.

They emphasized that Norplant and other provider controlled contraceptive devices, like Depo-Provera, were targeting at women of color and indigenous women. Their platform condemned Baltimore's use of the contraceptive device to curb teenage pregnancy and opposed programs being proposed that offered welfare recipients additional monetary benefits in exchange for using Norplant.⁷⁶

At the conference in Cairo, attended by over 10,000 participants from more than 150 nations and 1,500 different organizations, feminists from around the world voiced their concerns over the uses of Norplant and the drug's risks and side effects.⁷⁷ Feminists' arguments against Norplant focused on three specific elements. First, they argued that Norplant gave providers control of women's reproduction. Second, feminists demonstrated that long-term forms of birth control, like Norplant, were being researched not because they benefited women's health and reproduction, but instead as a way to decrease fertility, especially in the Global South. Finally, the women's activists argued that governments' uses of Norplant was a part of a long history of state-sanctioned sterilizations targeted at poor and minority women. In addition to presenting these arguments, women told personal stories about their struggles with the Norplant. One Bangladeshi woman displayed her scarred arm while explaining that she was no longer able to use it after a doctor was unable to find and remove the Norplant implanted under her skin. Another Brazilian activist told the story of a woman who experienced early

⁷⁶ The U.S. Women Of Color Delegation To The International Conference On Population And Development, "Executive Summary: Statement On Poverty, Development, And Population Activities," September 1994, 1-3, box 3 folder 8: ICPD, U.S. Women of Color Delegation, 1993-1994, CAR, SSC.

⁷⁷ Connell, "Norplant and the New Paradigm of International Population Policy," 86.

menopause after the Norplant inserted under her skin released the full five year dosage of progestin in just six months.⁷⁸

Also, at the Cairo Conference, Wyeth-Ayerst, Norplant's U.S. distributor, along with population control proponents endorsed expanding the use of Norplant globally. As a conference sponsor, Wyeth Ayerst used their platform to counter the feminists' disapproval of Norplant. The pharmaceutical company described the birth control device as a tool of reproductive empowerment and the most innovative contraceptive technology since the birth control pill. Like the Population Council's common narrative, many population control advocates at the conference, such as Population Action International and Population Connection, celebrated nations with significant Norplant programs, including Indonesia and Bangladesh.⁷⁹

Nevertheless, the international feminist campaigns against expanding the use of Norplant won out in Cairo. The 1994 ICPD marked the first time the international community emphasized women's health and welfare when considering population politics.⁸⁰ Before 1994, population control advocates urged the use of family planning to limit pregnancies especially in the Global South, and a population policy was considered

⁷⁸ April Lindgren, "Rich Nations Must Tread Softly," *Ottawa Citizen*, 4 September 1994, A1; Connell, "Norplant and the New Paradigm of International Population Policy," 90.

⁷⁹ Betsy Hartmann, *Reproductive Rights and Wrongs: The Global Politics of Population Control, Third Edition*, (Chicago: Haymarket Books), 201; U.S. Congress, House of Representatives, Sense of House Regarding Family Planning Programs, 106th Cong., 1st session, March 23, 1999, accessed on October 4, 2019), <https://www.congress.gov/congressional-record/1999/3/23/house-section/article/h1510-2?s=1&r=90>.

⁸⁰ Connell, "Norplant and the New Paradigm of International Population Policy," 76; "Programme of Action: Adopted at the International Conference on Population and Development, Cairo, 9-14 September 1994," (United Nations Population Fund, 2004), iii; John F. Kantner and Andrew Kantner, *International Discord on Population and Development*, (New York : Palgrave Macmillan, 2010), 55.

successful if and when demographics showed a decline in births.⁸¹ At the 1994 conference, this measure of success was regarded as a failure. Leading political figures agreed with the feminists arguing that population policies needed to provide all women and men access to healthcare, including services related to reproductive and sexual health and family planning.⁸²

Yet the fight against Norplant was far from over. In the U.S., welfare reform was looming, and neoliberal politicians were still implementing policies that criminalized blackness and urban spaces. Asetoyer and others were raising their voices, but many mainstream white-led feminist organizations prioritized the struggle for abortion rights, which were coming under greater and greater attack. Many women who had Norplant implanted appreciated having a long-term option and felt that the side effects they experienced were a small price to pay for the confidence that they would not become pregnant. It would take feminist activism against Norplant coming to the attention of class action lawyers for a major change to happen.

⁸¹ Connell, “Norplant and the New Paradigm of International Population Policy,” 75.

⁸² “Programme of Action: Adopted at the International Conference on Population and Development, Cairo, 9-14 September 1994,” (United Nations Population Fund, 2004), 10, accessed on December 4, 2019, https://www.unfpa.org/sites/default/files/event-pdf/PoA_en.pdf

CHAPTER V

THE LITIGATION BOOM

Between 1994 and 1999, fifty thousand women brought two hundred class action lawsuits against Norplant's U.S. distributor, Wyeth-Ayerst Laboratories. The plaintiffs, many of who were poor and minority women, sued the company because they experienced damaging side effects ranging from irregular bleeding to blindness. When researching Norplant and constructing their legal arguments, attorneys building cases against Wyeth-Ayerst relied heavily on a legal publication that collected materials and wrote about ongoing class action litigation. After collecting extensive materials related to Norplant, Mealey's, the legal publisher, summarized their findings in a report. Their Norplant report reveals that while they had reviewed many feminist critiques of Norplant, Mealey's chose to avoid addressing issues related to coercive temporary sterilizations because they believed the cases could not be won on those grounds. Consequently, the attorneys, instead, drew on feminist discussions around informed consent and proper prescribing practices to inform their legal arguments. They charged that Wyeth-Ayerst was responsible for their plaintiffs' suffering because the company's direct consumer advertising campaign created inaccurate perceptions about Norplant's safety and hindered proper informed consent practices. The lawsuits and the publicity surrounding them enriched lawyers and forced the drug company to take Norplant off the market. Bu

the cases did not win a significant financial settlement for the women or draw attention to the population control efforts directed at them.

In the early 1990s, as the Norplant litigation effort began, class action litigation was in the midst of an important change. Product liability litigation that pinned tens of thousands or even hundreds of thousands of plaintiffs against a large and wealthy company was on the rise, and lawyers were cashing in. This was a stark shift from just a few decades earlier when class action litigation was closely tied to social activism. Earlier in the twentieth century, activist organizations used class action lawsuits to shed light on social and political injustices, including ending segregation in public schools in *Brown v. Board of Education* and the legalization of abortion in *Roe v. Wade*.

Class action lawsuits allow an individual, or the lead plaintiff, with a singular grievance to speak on behalf of themselves and a larger group of plaintiffs with the same accusations. The 1970s marked the first time that class actions were used in negligence tort law, or cases representing a group of individuals harmed by the actions of another individual or group.¹ This change allowed lawyers to file class action suits representing thousands of plaintiffs claiming to be harmed by a specific product. Occasionally, mass torts, which treat each plaintiff individually, are consolidated into a larger class action case. Because class action suits can be massive, the plaintiffs are broken down into

¹ Marcia Angell, *Science on Trial: The Clash of Medical Evidence and the Law in the Breast Implant Case*, (London: W.W. Norton & Company, 1996), 69-89; Deborah R. Hensler, Nicholas M. Page, Bonita Dombey-Moore, Beth Giddens, Jennifer Gross, and Erik K. Moller, *Class Action Dilemmas: Pursuing Public Goals for Private Gain*, (Santa Monica: RAND Institute for Civil Justice, 2000), 10; "Supreme Court to Decide Whether to Certify Largest Class Action in History," *The Bottom Line HR: News You Can Use* 6:1 (February 2011).

separate classes and a single plaintiff represents an entire class.² Lawyers were motivated to participate in mass tort litigation because it often resulted in large monetary settlements. In all class action lawsuits, a judge must certify the class action suit, meaning a lawyer must convince a judge that the class action process is the most suitable method for reaching a just and efficient ruling. The judge then appoints the representative plaintiffs who stand for the rest of the members of their class, decides on the leading attorneys, and sanctions their fees. The first successful decision in a product liability class action lawsuit occurred in 1973 after over 200,000 cases were filed against the manufacturers of asbestos, a substance in fire resistant and insulating materials that caused lung cancer. This legal victory led to a significant increase in mass tort litigation over the next three decades.³

Class action suits can be lucrative for attorneys. The fees for these suits are a smaller percentage than the typical one-third contingency fee, or money lawyers receive only if they win a case, but their overall earnings tend to be significant if they win their case or negotiate a profitable settlement because of the considerable number of plaintiffs involved. In class action litigation, the plaintiffs and defendants can agree upon a settlement either before or after a suit has been certified. About seventy-five percent of mass tort litigation is settled before a lawsuit is filed. Judges then must review the settlements and decide if it fundamentally treats both sides fairly. Before making their decision, a judge sits in on a hearing where each party presents arguments in support of

² “Mass Tort vs. Class Action,” Searcy and Denney: Attorneys at Law, accessed on March 7, 2019, <https://searcymasstort.com/what-are-mass-torts/mass-tort-vs-class-action/>.

³ Angell, *Science on Trial*, 75.

or in opposition to the settlement. Following the hearing, the judge either consents or objects to the settlement.⁴

The women's health movement has used class action suits to improve the health care system's treatment of women and challenge the medical industry. In the 1970s, activists used class action lawsuits to aid victims of the Dalkon Shield, an intrauterine device (IUD), and to warn other women about the dangerous contraceptive. An investigation of the Dalkon Shield IUD, which caused over 200 septic abortions, or an infection of the fetus or placenta, and eighteen deaths, proved that A. H. Robins Corporation, the producer and distributor of the IUD, did not adequately test it.⁵ After one Dalkon Shield victim successfully sued A. H. Robins, women's health organizations, including the National Women's Health Network (NWHN) and the Boston Women's Health Book Collective (BWHBC), filed a series of class action lawsuits on behalf of almost 200,000 women against A. H. Robins.⁶ These lawsuits forced the pharmaceutical company to file for Chapter 11 bankruptcy. While the plaintiffs did not win much equity, the suits brought attention to the dangers associated with the Dalkon Shield and taught people to question contraceptives' safety.⁷

⁴ Angell, *Science on Trial*, 78.

⁵ A.H. Robins' parent company, American Home Products, was also the parent company of Wyeth-Ayerst which produced and distributed Norplant in the U.S. Rebecca M. Kluchin, *Fit to be Tied: Sterilization and Reproductive Rights in America, 1950-1980*, (New Brunswick: Rutgers University Press, 2009), 58; Rainey Horwitz, "The Dalkon Shield," *The Embryo Project Encyclopedia*, January 10, 2018, accessed on March 14, 2019, <https://embryo.asu.edu/pages/dalkon-shield>.

⁶ Nicole J. Grant, *The Selling of Contraception: The Dalkon Shield Case, Sexuality, and Women's Autonomy*, (Columbus: Ohio State University Press, 1992); Mary F. Hawkins, *Unshielded: The Human Cost of the Dalkon Shield*, (Toronto: University of Toronto Press, 1997); Karin M. Hicks, *Surviving the Dalkon Shield IUD: Women v. The Pharmaceutical Industry*, (New York: Teachers College Press, 1994); Nelson, *More than Medicine*, 177-178.

⁷ Angell, *Science on Trial*, 77.

About two decades later, in 1993, attorney Jewel Klein filed the first class action lawsuit against Wyeth-Ayerst on behalf of Norplant patients in Illinois. The plaintiffs, in this case, alleged that they had been injured during the removal process. They argued that Wyeth-Ayerst failed to adequately train healthcare professionals to insert and remove the birth control implant. When the case was discussed in the media, reporters frequently repeated Klein’s argument that Norplant caused women tremendous pain and distress. For example, an article in the *Chicago Tribune* quoted Klein describing a plaintiff “bleeding all the time . . . not interested in sex” with moods that were “out of control.”⁸ Eventually, Klein’s case would become part of a large multidistrict litigation that brought together over a hundred of the class action suits against Wyeth-Ayerst.⁹

Quickly following this first case, other lawyers across the country began filing lawsuits against Wyeth-Ayerst. For instance, in 1994, lawyer and women’s health activist, Sybil Shainwald followed with her own suit against Wyeth-Ayerst. Before becoming a lawyer, in the 1960s, Shainwald had protested against the Vietnam War and supported the Civil Rights Movement. She attended women’s consciousness raising meetings and as a Jewish woman, she participated in feminist Seders. The feminists leading these women only religious ceremonies altered the scripture to only represent female pronouns.¹⁰ In addition, Shainwald became a member of the National

⁸ Bryanna Latoof, “The Norplant Debate,” *Chicago Tribune*, October 28, 1994, accessed on March 7, 2019, <https://www.chicagotribune.com/news/ct-xpm-1994-10-28-9410290009-story.html>.

⁹ This multidistrict litigation case will be discussed further later in this chapter. In *Re Norplant Contraceptive Products Liability Litigation*, United States District Court for the Eastern District of Texas, Beaumont Division 215 F. Supp. 2d 795; 2002 U.S. Dist. LEXIS 16929, August 14, 2002, 203.

¹⁰ Sybil Shainwald, in email to author, July 22, 2019; Abigail Pogrebin, “The Feminist Seder in the Time of #MeToo,” *Reform Judaism*, March 12, 2018, accessed on July 27, 2019, <https://reformjudaism.org/blog/2018/03/12/feminist-seder-time-metoo>.

Organization for Women (NOW). Even before the 1960s and 1970s, when the women's health movement first began to challenge the male centered medical industry, Shainwald was wary of the industry's treatment of women. She insisted on giving birth without the use of drugs in the 1950s, when this practice was highly unusual. Many of her fears about the medical industry were confirmed when she read Barbara Seaman's bestselling 1969 book, *The Doctors' Case Against the Pill*, which investigated the oral contraceptive's side effects and shed light on the acute lack of informed consent in women's healthcare.¹¹ In 1972, after completing her Master's in history at Columbia University and learning that her daughter's sixth grade teacher was attending law school at night, she applied to Columbia Law School. Her application was rejected, and the university informed her they preferred giving opportunities to young men who could go onto have long careers.¹² New York Law School accepted her, and in 1976, she, along with another six women in a class of one hundred sixty-nine, earned her law degree.¹³

¹¹ Sybil Shainwald, "Sybil Shainwald's Speech at the Cosmos Club in Washington, D.C. on 11/7/16," Washington, D.C., November 7, 2017, accessed on July 25, 2018, ww.womenshealthadvocate.org/articles/sybil-shainwald-speaks-at-the-cosmos-club-in-washington-d-c-on-11716/; Sybil Shainwald interview by Justina Licata, New York City, May 31, 2017; Kelly Susanne O'Donnell, "The Political is Personal: Barbara Seaman and the History of Women's Health Movement" (PhD diss., Yale University, 2015), 22.

¹² Sybil Shainwald, "Sybil Shainwald's Speech at the Cosmos Club in Washington, D.C. on 11/7/16," Washington, D.C., November 7, 2017, accessed on July 25, 2018, ww.womenshealthadvocate.org/articles/sybil-shainwald-speaks-at-the-cosmos-club-in-washington-d-c-on-11716/; William and Mary Libraries, "Sybil Shainwald, W&M Class of 1948," Filmed [September 2018], YouTube video, 1:19:53, posted [September 20, 2018], https://www.youtube.com/watch?v=e_qkfGP-Xh8.

¹³ "About," Women's Health Advocate, accessed on July 25, 2018, <http://www.womenshealthadvocate.org/about-sybil-shainwald/>; Sybil Shainwald, "Sybil Shainwald's Speech at the Cosmos Club in Washington, D.C. on 11/7/16," Washington, D.C., November 7, 2017, accessed on July 25, 2018, ww.womenshealthadvocate.org/articles/sybil-shainwald-speaks-at-the-cosmos-club-in-washington-d-c-on-11716/.

Shainwald's first significant class action legal victory came in 1981 when she represented diethylstilbestrol (DES) victims.¹⁴ DES was a drug given to pregnant women between 1938 and 1971 to prevent miscarriages. In the 1960s, the FDA discovered that the drug had harmful effects on a mother's offspring, including higher risks of cancer and reproductive injuries.¹⁵ Shainwald won \$42.5 million for eleven women often referred to as the "DES daughters." Over the next two decades, Shainwald took on a variety of important class action cases involving the negative impact of medication, medical procedures, and birth control on women's health. She represented women harmed by the Dalkon Shield IUD, silicone breast implants, the contraceptive injection, known as Depo-Provera, a drug used to suppress lactation, called, Parlodel, and in the 1990s, Norplant. Throughout, Shainwald interfaced with the feminist movement, serving on the board of the National Women's Health Network and writing and lecturing on an array of legal and women's health topics, including product liability, obstetrical malpractice, IUDs, and hormone therapy.¹⁶

As mentioned in the previous chapter, in the 1980s, Bangladeshi women who campaigned against Norplant's testing trials warned Shainwald of both the

¹⁴"Sybil Shainwald, Esq." *New York Magazine*, March 29, 2009, accessed on 17 August 2016, <http://nymag.com/nymag/advertorial/womenleaders/sybil-shainwald-esq/>.

¹⁵ Margaret Lee Braun, *DES Stories: Faces and Voices of People Exposed to Diethylstilbestrol*, (Rochester: Visual Studies Workshop Press, 2001), vii. Barbara Seaman and Laura Eldridge, eds. *Voices of the Women's Health Movement, Volume One*, (New York: Seven Stories Press, 2012), 121.

¹⁶ "Sybil Shainwald Papers Finding Aid," 1924-2012, MC 748, finding aid, SSP, SL. In addition, Shainwald was on the boards of Dalkon Shield Information Network, Trial Lawyers for Public Justice, National Network to Prevent Birth Defects, and the Hysterectomy Educational Resources and Services (HERS) Foundation. Shainwald was also a contributing member of the American Association for Justice, otherwise known as the Association of Trial Lawyers of America. During her time as a member, she worked as both chair of the group's environmental and toxic tort section and co-chair of their breast implant litigation and DES litigation committees, and Shainwald was affiliated with their contraceptive implant litigation group.

contraceptive's harmful side effects as well as the unethical accessibility trials conducted all over the developing world. Shainwald focused on the former. Unlike the women of color health activists who centered their campaigns against Norplant on ending the temporary sterilization practices, Shainwald was more focused on exposing how Norplant was a poorly tested, unsafe drug. Using her clout as both an activist and a lawyer, she hoped these arguments would enable her to stop the use of the contraceptive device altogether. In the late 1980s, she testified against the Food and Drug Administration's (FDA) approval of Norplant for distribution in the U.S. on the grounds that Norplant's testing was insufficient and that it was unsafe for use.¹⁷

In the mid-1990s, after Norplant patients suffering from harmful and painful side effects approached her, Shainwald filed state and federal class action and individual suits against Wyeth-Ayerst.¹⁸ One of the plaintiffs Shainwald represented was Leidy Ramirez, who suffered from headaches, weight loss, hair loss, and significant pain in her arm after receiving Norplant. The continuous arm pain led her to request a removal a year after she had the device implanted. Ramirez's removal procedure was so painful the practitioner was forced to suspend it. The remaining capsules were removed a month later, but Ramirez's arm pain, numbness, and weakness only worsened. Ultimately, the

¹⁷ "Human Laboratory Documentary Transcript," *BBC Television: Horizon*, Air Date November 5, 1995, December 9, 2010, accessed on May 26, 2017, <http://www.oldthinkernews.com/2010/12/09/human-laboratory-documentary-transcript/>; Seaman Eldridge, *Voices of the Women's Health Movement*, 362.

¹⁸ Laura Duncan, "Norplant: The Next Mass Tort," *ABA Journal*, (November 1995): accessed on September 7, 2016, https://books.google.com/books?id=XSWsefm8Av4C&pg=PA16&lpg=PA16&dq=Laura+Duncan,+%E2%80%9CNorplant:+The+Next+Mass+Tort,%E2%80%9D&source=bl&ots=WaDeLjnZIK&sig=AnNpMqGknL4_rKYnc50ewrhf940&hl=en&sa=X&ved=2ahUKEwiHw9a2-JfdAhWSPN8KHSPyBRIQ6AEwAXoECACQAQ#v=onepage&q=Laura%20Duncan%2C%20%E2%80%9CNorplant%3A%20The%20Next%20Mass%20Tort%2C%E2%80%9D&f=false.

contraceptive device did permanent damage to the nerves in her upper arm and caused significant scarring. A medical expert's examination following the removal argued that it was likely that the nerve was pulled out of her arm during the removal procedure.¹⁹ During the trial, Finney, the practitioner at Planned Parenthood that had performed Ramirez's insertion, testified that her training was minimal. While Wyeth-Ayerst had provided her with insertion and removal instructions that included practicing on a model arm, the practitioner had never performed any surgical insertions that required skin incisions before Norplant. In addition, she could not recall any materials that "warned of certain risks of removal including excessive scarring and chronic pain."²⁰

In Ramirez's and her other Norplant cases, Shainwald focused her legal arguments on demonstrating how Wyeth-Ayerst impeded the practice of informed consent, a concept that has become more valued in the medical field thanks to the work of women's health activists. She argued that Wyeth-Ayerst's failure to adequately inform medical practitioners of Norplant's risks and side effects as well as to properly train them to insert and remove the contraceptive device made the pharmaceutical company liable for Ramirez's injuries.²¹ In Ramirez's case, Shainwald contended that the written information outlining Norplant's risks and side effects given to healthcare practitioners and Norplant patients were "watered down" and neglected to mention the risk of nerve damage. While Shainwald failed to prove to a judge that Wyeth-Ayerst's actions had

¹⁹ Leidy Ramirez, Plaintiff, v. Wyeth Laboratories, Inc., a subsidiary of American Home Products Corporation, et al., Defendants, 686 N.Y.S.2d 602, Supreme Court, New York County. January 8, 1999, accessed on August 31, 2018, https://scholar.google.com/scholar_case?case=3577189484609812631&hl=en&as_sdt=6,34&as_vis=1.

²⁰ Ramirez v. Wyeth Laboratories, Inc., 686 N.Y.S.2d 602, 1999.

²¹ Ramirez v. Wyeth Laboratories, Inc., 686 N.Y.S.2d 602, 1999.

endangered Ramirez's health, she continued to represent women harmed by their use of Norplant. Shainwald also informed other lawyers of her belief that Norplant was a dangerous drug that should be removed from the market.²²

While Shainwald's feminism motivated her to litigate against Norplant, she was an outlier. Most of the firms that filed suits against Wyeth-Ayerst had no association with feminism or the women's health movement. Their blitz of lawsuits was part of a growing American trend. Some lawyers saw mass tort litigation as a quick fix for societal issues such as poorly tested pharmaceuticals and workplace discrimination. Others saw it as a highly lucrative venture and cared little about its social value. More likely, many class action lawyers hoped to make positive changes in their clients' lives while also earning significant sums of money.²³

The possibilities of a profitable class action suit against a large and wealthy pharmaceutical company motivated many lawyers to become involved. Many of the same lawyers who got involved with Norplant had profited from the massive silicone breast implant settlement in 1994. The plaintiffs in the silicone breast implant suits suffered from dizziness, joint pain, muscle pain, headaches, and chronic fatigue. Lawyers filed more than 16,000 class action lawsuits in both state and federal courts on behalf of women suffering from these complications. In 1994, in the largest class action settlement

²² Ramirez v. Wyeth Laboratories, Inc., 686 N.Y.S.2d 602, 1999.

²³ Mary Ann Glendon, *A Nation Under Lawyers: How the Crisis in the Legal Profession is Transforming American Society*, (Cambridge: Harvard University Press, 1994), 272; Walter K. Olson, *The Rule of Lawyers: How the New Litigation Elite Threatens America's Rule of Law*, (New York: Truman Talley Books St. Martin's Press, 2003), 129-152.

to date, the 440,000 plaintiffs and their lawyers were awarded \$4.25 billion.²⁴ Law firms quickly began to target other medical devices containing silicone. Norplant was one of them.²⁵

To attract plaintiffs, lawyers used a number of strategies, including advertising, calling for referrals, and town hall style informational events.²⁶ Because lawyers understood that Norplant had been pushed on women of color and women living in poverty, firms focused their attention on those populations.²⁷ One firm in Philadelphia spent \$19,800 on six hundred advertisements posted in the Southeastern Pennsylvania Transportation Authority (SEPTA), the city's public transportation. The firm purchased the advertising package referred to as the "inner-city campaign," because it targeted routes in low-income neighborhoods.²⁸ Further, many other firms across the country advertised on billboards. One typical billboard in Houston featured two white male lawyers standing side-by-side sporting warm and inviting smiles. The billboard urged Norplant users to contact their firm for more information on how to become involved in the growing litigation.²⁹

²⁴ Angell, *Science on Trial*, 27; For additional reading examining silicone breast implant: Marsha L. Vanderford and David H. Smith, *The Silicone Breast Implant Story: Communication and Uncertainty*, (Mahwah, New Jersey, Lawrence Erlbaum Associates, Publishers, 1996); Susan M. Zimmermann, *Silicone Survivors: Women's Experiences with Breast Implants*, (Philadelphia: Temple University Press, 1998).

²⁵ Louise Palmer, "Injustice for All," *Vogue*, October 1, 1996, 248, ProQuest.

²⁶ Walter K. Olson, *The Role of Lawyers: How the New Litigation Elite Threatens America's Rule of Law*, (New York: Truman Talley Books St. Martin's Press, 2003), 148; Leslie Laurence, "Your Perfect Birth Control... Blocked," *Glamour Magazine*, September 1999, 308; Arthur González interview by Justina Licata, Skype, November 7, 2018.

²⁷ Angell *Science on Trial* 70. Also, the growing numbers of personal computers, a tool that became popular in the mid-1990s, helped attorneys produce lawsuits quickly.

²⁸ Scott Farmelant, "Trolling for Torts," *Philadelphia City Paper*, July 13-20, 1995, accessed on February 12, 2019, <https://mycitypaper.com/articles/071395/article003.shtml>.

²⁹ Laurence, "Your Perfect Birth Control... Blocked," 379; González interview by Licata, November 7, 2018.

Firms also used town hall style meetings to attract plaintiffs. These meetings were typically advertised in local newspapers and they often took place in hotel conference rooms, particularly in metropolitan areas. At the meetings, lawyers presented a slideshow discussing Norplant's developmental history, its unethical and problematic clinical trials, and the many side effects linked to the contraceptive device. They then informed the audience about their case against Wyeth-Ayerst, and how possible plaintiffs could join the litigation. One lawyer stated that close to ninety-five percent of the women that attended his firm's town hall meetings agreed to participate in their class action suit.³⁰

The media coverage aided lawyers in their recruitment. In 1994, newspapers, magazines, and television news media reported on the growing number of class action cases against Wyeth-Ayerst, often featuring plaintiffs who had suffered from extreme and unusual side effects. Much of the media's coverage painted Norplant as a dangerous drug. One of the first nationally televised profiles was on Connie Chung's CBS news show, *Eye to Eye*, and it featured several women who suffered painful Norplant removals that caused scarring and numbness.³¹ A wave of national and local television coverage across the U.S. followed. One local Dallas station focused their story on teenage mother, Melissa Diaz, who suffered a stroke six months after her Norplant device was implanted. During the interview, Diaz told the reporter, "I really can't do much for myself. I have to have somebody else pick me up, help put me down." The report went on to discuss possible links between Norplant and autoimmune diseases associated with

³⁰ González interview by Licata, November 7, 2018.

³¹ Laurence, "Your Perfect Birth Control... Blocked," 379.

silicone breast implants. Two days later, the same story was televised on a local Los Angeles channel.³²

Participating in the mass litigation as a plaintiff was fairly simple. Many women signed up for cases over the phone without putting down any personal funds. If they lost the case, they did not lose any money, but if they won or settled, plaintiffs were guaranteed a small portion of the earnings. The great majority of the lawsuits addressed an array of complaints--from minor, unpleasant side effects like irregular bleeding, headaches, weight gain, and nausea to harmful, irreversible conditions including nerve damage, blindness, and strokes. Because virtually all Norplant patients experienced at least one side effect, all users were possible plaintiffs.³³

In the end, about fifty thousand Norplant users signed up to participate in over two hundred class action lawsuits across the country. Many of the plaintiffs were either women of color or poor women or both. For instance, one Houston firm, Laminack and González, recruited somewhere between 450 and 500 plaintiffs. The majority of these women were Latina, and many had received their Norplant device for free as part of their Medicaid coverage. Lawyers like González and Laminack targeted poor and minority women because they knew these women used Norplant at a higher rate than white and middle class women. Yet their litigation altogether avoided addressing how coercion and population control impacted their plaintiffs' experiences with Norplant.³⁴

³² "Transcript," Dallas, Texas KXAS-TV News Five at 10 pm, August 11, 1994, box 239 folder 3: RHTP [program B&B] contraceptive- Norplant, 1994, BHR, SL.

"Transcript," Los, Angeles, California KNBC-TV Today in L.A. Weekend at 7 am, August 13, 1994, Box 239 Folder 3: RHTP [program B&B] contraceptive- Norplant, 1994, BHR, SL.

³³ Laurence, "Your Perfect Birth Control... Blocked," 379.

³⁴ González interview by Licata, November 7, 2018.

In the mid-1990s, as the litigation grew, one legal publication largely shaped class action lawyers' arguments against Norplant. Mealey's Litigation Publication was a niche legal publication that created a bimonthly newsletter called *Mealey's Litigation Reports*. The newsletter's readership consisted mainly of attorneys and other professionals interested in class action litigation. Each report focused entirely on a litigation topic gaining national attention such as asbestos and tobacco. Following the publication of each newsletter, Mealey's continued to research the litigation's development and collect relevant documents. Mealey's subscribers could request access to any of these documents.³⁵

In 1994, Mealey's published a newsletter dedicated to the growing Norplant litigation. The publication instructed lawyers on how to become involved in the litigation boom, and it examined possible arguments against Wyeth-Ayerst.³⁶ The newsletter reported that many of the firms participating in the silicone breast implant litigation believed that the silicone rubber that encased the hormones in Norplant were making women sick. Because many Texas-based firms had partaken in the breast implant litigation, much of the discussion around the alleged dangers associated with silicone rubber in Norplant occurred there. In their Norplant newsletter, Mealey's featured one Texas woman's allegations that the silicone in the contraceptive device caused her to contract scleroderma, an autoimmune rheumatic disease that causes skin and connective

³⁵ "LEXIS Acquires Mealey Publications, Inc.," News Breaks, August 7, 2000, accessed on March 8, 2018, <http://newsbreaks.infotoday.com/Digest/LEXIS-Acquires-Mealey-Publications-Inc-17778.asp>.

³⁶ "LEXIS Acquires Mealey Publications, Inc.," News Breaks, 2000.

tissues to harden and tighten.³⁷ Her attorneys argued that the silicone rubber contained in the Norplant implant was seeping into the surrounding tissue and migrating throughout her body causing her injuries. They alleged that she had not been properly warned of this possible risk.³⁸

The newsletter featured a number of feminist documents from both the U.S. and around the globe. For example, it included a reprint of an UBINIG's article on the ethical violations and coercion that occurred during Norplant's Bangladeshi testing trials; a summary of Sybil Shainwald's testimony against the FDA's approval of Norplant; and an overview of the Native American Women's Health and Education Resource Center's (NAWHERC) reports revealing the Indian Health Services' (IHS) coercive use of Norplant on Indian Reservations.³⁹ Although each of these sources examined Norplant's ties to sterilization practices, the summaries of these documents presented in *Mealey's Litigation Report* brushed over the issue. Instead, the newsletter focused on Norplant's insufficient testing trials, problematic side effects, and the cursory labeling that accompanied the Norplant systems. For instance, the summary of UBINIG's 1988 report on the Norplant testing trials in Bangladesh included a discussion of healthcare practitioners' poor counseling practices and UBINIG's claims that the World Health Organization (WHO) left out some of the side effects associated with Norplant in their

³⁷ "Scleroderma," *The Mayo Clinic*, accessed on February 20, 2019, <https://www.mayoclinic.org/diseases-conditions/scleroderma/symptoms-causes/syc-20351952>.

³⁸ "Texas Woman Says her Scleroderma Was Caused by Silicone in Norplant," *Mealey's Litigation Reports: Norplant* 1:3 (December 1, 1994).

³⁹ "Native American Women's Group Issued Critical Reports on Norplant," *Mealey's Litigation Reports: Norplant* 1:5 (January 23, 1995, 11); "A 1988 Report from Bangladeshi Interest Group Questions Norplant Trials," *Mealey's Litigation Reports: Norplant* 1:1 (November 3, 1994), 37-38.

reported findings. The newsletter neglected to examine UBINIG's discovery of coerced sterilizations.⁴⁰ Similarly, the newsletters' summary of NAWHERC's reports centers on the organization's assertion that Norplant's clinical trials and informational packets were inadequate. Only at the very end of the summary does the newsletter passively mentioned that NAWHERC's reports also examined the use of coercion in the "trials, removal problems, cost and protocol of the Indian Health Service."⁴¹ With Mealey's Norplant newsletter playing a significant role in constructing lawyers' arguments against Wyeth-Ayerst, the lawyers ignored the issues of coercion and population control.

To encourage lawyers to participate in a nationwide class action lawsuit, the Mealey's Publication often sponsored litigation conferences. In June 1995, following their Norplant newsletter, Mealey's hosted the National Norplant Litigation Conference in Houston, Texas.⁴² To attend the conference, firms paid \$595 for their first two attendees and an additional \$520 for each additional attendee.⁴³ Around five hundred lawyers, medical experts, and professionals came.⁴⁴ The first day's panels focused on Norplant's development, FDA approval, the plaintiffs' alleged injuries, trial strategy, and the punitive damages issues regarding claims of both emotional distress and bodily harm. Sybil Shainwald also spoke about her testimony in opposition to Norplant's FDA

⁴⁰ "A 1988 Report from Bangladeshi Interest Group Questions Norplant Trials," *Mealey's Litigation Reports: Norplant* Volume 1:1 (November 3, 1994), 37-38.

⁴¹ "Native American Women's Group Issued Critical Reports on Norplant," 11.

⁴² Angell, *Science on Trial*, 83.

⁴³ "Mealey's To Hold National Conference on Norplant Litigation," *Mealey's Litigation Reports: Norplant* 1:10 (March 23, 1995).

⁴⁴ Alicia Mundy, *Dispensing with the Truth: The Victims, the Drug Companies, and the Dramatic Story Behind the Battle Over Fen-Phen*, (New York: St. Martin's Press, 2001), 28. This information comes from a book about the legal battle over the diet pill, Fen-Phen, which Wyeth-Ayerst also distributed. Like Norplant, the class action litigation around Fen-Phen occurred in the 1990s. This book examines Mealey's Fen-Phen litigation conference, therefore I am assuming, the Norplant conference had similar attendance.

approval and the problematic side effects and dangers risks associated with the contraceptive implant.⁴⁵

On the second day, the conference's chair Turner Branch compared the Norplant litigation to the contentious legal battle over silicone breast implants. In the 1990s, Branch was the Senior Partner in the Branch Law Firm in Albuquerque, New Mexico, and he specialized in catastrophic injury, wrongful death, civil jury trials, and multi-party litigation. Earlier in his career, Branch acted as Liaison Council for the breast implant multidistrict litigation (MDL), and his wife, Margaret Branch was a member of the breast implant litigation's steering committee. At the time of the conference, Turner, along with many other attorneys, anticipated applying the same arguments that had led to a tremendous monetary settlement with the silicone breast implant manufacturers to Norplant.⁴⁶

Day two of the conference featured three panels about the consolidation of the growing number of class action suits into a multidistrict litigation (MDL).⁴⁷ This special legal proceeding established in 1968 allowed for the consolidation of hundreds or even thousands of cases against a single defendant. Following the consolidation, the case would be tried in one city with one set of plaintiffs' attorneys handling the entire

⁴⁵ "Mealey's National Norplant Litigation Conference 1995 Program," *Mealey's Litigation Publication*, (June 22-23, 1995).

⁴⁶ "Mealey's National Norplant Litigation Conference 1995 Program," 1995. "Mealey's To Hold National Conference on Norplant Litigation," March 23, 1995; Gina Kolata, "Will Lawyers Kill of Norplant," *New York Times*, May 28, 1995, F1. At the conference, Turner Branch also compared the Norplant litigation to the contentious legal battle over silicone breast implants. Earlier in his career, Branch had acted as Liaison Council for the breast implant multidistrict litigation, and his wife, Margaret Branch, was a member of the breast implant litigation's steering committee. Margaret Branch also spoke at the conference about female lawyers' participation in the Norplant litigation.

⁴⁷ "Judicial Panel on Multidistrict Litigation" Federal Judicial Center, accessed on March 4, 2019, <https://www.fjc.gov/history/timeline/judicial-panel-multidistrict-litigation>.

workload. MDLs were intended to prevent both parties from replicating document discovery, depositions, and motions. They stop corporations from having to fight several different cases at once, while allowing a single judge the ability to immerse themselves in complex litigation. By authorizing thousands of plaintiffs to present their case as a unified force, such cases could intimidate a defendant, even an extremely wealthy one.⁴⁸ In 1994, the Judicial Panel on Multidistrict Litigation (JPMDL), a panel created to handle the rapidly growing number of mass tort lawsuits against industries and corporations, ruled that the Norplant litigations would be consolidated and the case would be centralized in the Eastern District of Texas before U.S. Judge Richard A. Schell.⁴⁹ By the time of the conference, over ninety class action cases, or about half of the cases representing Norplant users, were included in the MDL.⁵⁰

Turner Branch was heavily featured in the conference panels examining the MDL because he and Christopher M. Parks, of Parker and Parks of Port Arthur, Texas, had been appointed co-chairs of the steering committee in the federal consolidation of the Norplant MDL.⁵¹ As steering committee chairs and MDL managers, Turner and Parks

⁴⁸ Mundy, *Dispensing with the Truth: The Victims*, 28.

⁴⁹ “JPMDL Transfers Norplant Litigation to Texas,” *Mealey’s Litigation Reports: Norplant* 1:4 (December 15, 1994): 3; “JPMDL Hears Arguments on Consolidation, Transfer,” *Mealey’s Litigation Reports: Norplant* 1:3 (December 1, 1994): 4; “Judicial Panel on Multidistrict Litigation” Federal Judicial Center.

⁵⁰ “Tagalong Cases Transferred; Opposition Dispute,” *Mealey’s Litigation Reports: Norplant* 1:15 (June 8, 1995): 7.

⁵¹ “Steering Committee Appointed at MDL Hearing,” *Mealey’s Litigation Reports: Norplant* 1:7 (February 2, 1995): 3; Terry Carter, “Setting the Ground Rules: Judge Controls Snacks and Wisecracks, dismisses Norplant Bellwether Case,” *ABA Journal* 83: 8 (August 1997): 33, accessed on February 22, 2019, https://books.google.com/books?id=Wpb3WDo4_ZkC&pg=PA33&lpg=PA33&dq=aba+laminack+norplant&source=bl&ots=mZJtdVDwJx&sig=ACfU3U3G9c_gKGNeO1aUdcUzUJcGdBOIew&hl=en&sa=X&ved=2ahUKewjFj62RsNDgAhUPVd8KHcsACJAO6AEwAHoECAYQAQ#v=onepage&q=aba%20laminack%20norplant&f=false; While a number of lawyers were motivated to become involved in the MDL, others, including Richard Laminack, feared that the MDL would hinder individual plaintiff’s cases. When asked why his firm would not be participating in the multidistrict litigation, Laminack responded, “It’s designed

were required to direct the management and discovery committee, therefore in a sense, their role was to organize and represent other lawyers, rather than Norplant victims. They used the litigation conference to incorporate more cases into their MDL and begin to organize a legal argument based largely on the silicone breast implant suits.⁵²

Shortly after the conference, lawyers realized that scientific research did not support the claim that the silicone rubber in the Norplant device was poisoning patients.⁵³ While there was a link between silicone gel and autoimmune disease, silicone rubber did not cause similar medical complications. Forced to reconstruct their case, lawyers looked to feminist arguments about the pharmaceutical company's failures to properly warn Norplant users and healthcare professionals of the contraceptive's side effects and risks. The issue of informed consent caught their attention, but they ignored one essential aspect: the feminist analyses of the discrimination faced by poor and minority women. During the twentieth century, women of color experienced coerced and forced sterilizations at much higher rates than white women, and many women were not properly informed before their surgical sterilization procedures. Therefore, informed consent became a centerpiece of the reproductive justice agenda.⁵⁴ Lawyers participating

to be more efficient but really it slows down better lawyers, while others in the rest of the country get up to speed with you."

⁵² Mundy, *Dispensing with the Truth* 28, Again, this information is coming from a book about the diet pill, Fen-Phen. Because Fen-Phen's legal battle was comparable to Norplant's, I am speculating that the Norplant litigation's steering committee was working in a manner similar to the Fen-Phen's steering committee.

⁵³ Laurence, "Your Perfect Birth Control... Blocked," 379.

⁵⁴ Randall Hansen, and Desmond King, *Sterilized by the State: Eugenics, Race, and the Population Scare in Twentieth-Century North America*, (New York: Cambridge University Press, 2013); Wendy Kline, *Building a Better Race: Gender, Sexuality, and Eugenics from the Turn of the Century to the Baby Boom*, (Berkeley: University of California Press, 2001); Kluchin *Fit to be Tied* 2011; Nancy Ordovery, *American Eugenics: Race, Queer Anatomy, and the Science of Nationalism*, (Minneapolis: University of Minnesota Press, 2003); Harry Bruinius, *Better for all the World: The Secret History of Forced Sterilization and*

in the Norplant cases utilized feminist definitions of informed consent to drive their legal arguments, but they refused to grapple with how informed consent impacted different plaintiffs' experiences based on their race. By ignoring this nuance, they essentially whitewashed the plaintiffs' identities.

Though many, if not the majority, of the plaintiffs, were women of color and or women on Medicaid, lawyers did not address the plaintiffs' race or socioeconomic status in the legal proceedings.⁵⁵ It is true that when arguing a massive MDL with tens of thousands of plaintiffs, lawyers must in some way homogenize the plaintiffs' identities. Yet since much of the feminist opposition to Norplant focused on how the drug was used to control minority and poor women's right to conceive children, this omission requires explanation.

It appears that lawyers believed that defending the reproductive freedom of poor and minority women was a losing strategy. At the time, the federal government was gearing up to pass the Personal Responsibility and Work Opportunity Act (PRWORA), which ended a sixty-year-old entitlement to federal government support for poor single parents and replaced it with state administered work for welfare programs.⁵⁶ As discussed in chapter two, the PRWORA was the culmination of a growing backlash against welfare

America's Quest for Radical Purity, (New York: Alfred A. Knopf, 2006); Joanna Schoen, *Choice & Coercion: Birth Control, Sterilization, and Abortion in Public Health and Welfare*, (Chapel Hill: UNC Press, 2005); Jennifer Nelson, *Women of Color and the Reproductive Rights Movement*, (New York: NYU Press, 2003); Jennifer Nelson, *More Than Medicine: A History of the Feminist Women's Health Movement*, (New York: New York University Press, 2015); Andrea Smith, *Conquest: Sexual Violence and American Indian Genocide*. (Brooklyn: South End Press, 2005); Elena R. Gutiérrez, *Fertile Matters: The Politics of Mexican-Origin Women's Reproduction*, (Austin: University of Texas Press, 2008).

⁵⁵ González interview by Licata, November 7, 2018.

⁵⁶ Clare Daniel, *Mediating Morality: The Politics of Teen Pregnancy in the Post- Welfare Era*, (Amherst: University of Massachusetts Press), 2017.

mothers in which politicians and pundits vilified Black mothers and claimed they were irresponsibility having children out of wedlock while cheating the government out of tax dollars and living leisurely. In a political climate that supported the government stripping welfare mothers of their basic needs, lawyers did not expect much compassion towards poor women of color being coerced to use contraception.⁵⁷

Attorneys may have also been aware of the challenges that minority women faced when attempting to legally prove discrimination. In 1989, legal scholar, Kimberlé Crenshaw, examined a number of anti-discrimination cases brought forth by Black women and concluded that the courts could not see discrimination that impacted minority women. Crenshaw's research demonstrated that because Black women did not represent the experience of all Black people or all women, they were often excluded from discrimination policies and left unprotected.⁵⁸

The lawyers just wanted to win the cases. Unlike Shainwald, they were not women's health or feminist activists. They hoped to win their plaintiffs significant sums of money, but they did not approach the litigation with the hope of ending state sanctioned sterilizations, improving contraceptives, or rectifying a long history of reproductive injustices. Most lawyers saw Norplant as an opportunity to participate in a nationwide class action suit that, like the silicone breast implant litigation, could end with a profitable settlement.

⁵⁷ González interview by Licata, November 7, 2018.

⁵⁸ Kimberlé Crenshaw, "Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics," *University of Chicago Legal Forum*, Issue 1, Article 8, 1989.

Therefore, when constructing their arguments, attorneys shied away from issues of coercion and population control, instead focusing on Wyeth-Ayerst's inability to properly inform healthcare providers and patients of Norplant's risks and side effects.⁵⁹ Although they used the term "warn" rather than "inform," litigators working on class action cases against Norplant employed feminist arguments about how Wyeth-Ayerst's actions impeded informed consent procedures. Lawyers argued that Wyeth-Ayerst had failed to provide prescribing medical professionals with adequate and accurate information about Norplant, its risks, and side effects and that Wyeth-Ayerst's direct to consumer advertising campaign inappropriately minimized the risks associated with Norplant. Consequently, they argued that the pharmaceutical company was responsible for thousands of women's negative experiences with Norplant.⁶⁰

When these arguments were tested in a series of bellwether trials, or test cases used in tort law to try a broadly disputed issue, they proved difficult to substantiate.⁶¹ During the bellwether cases, lawyers presented plaintiffs suffering from a variety of side effects ranging from minor to severe. Many of the cases were tried in the Texas court system because it was known to be sympathetic toward plaintiffs in product liability cases. Texas is one of the few states in which all state judges, including those on the

⁵⁹ "Wyeth-Ayerst Argues Against Class that Plaintiffs Say Could Encompass 50,000 Women," *Mealey's Litigation Reports: Norplant* 1:23 (October 6, 1995): 5.

⁶⁰ Marc Arkin, "Products Liability and the Threat to Contraception," *Manhattan Institute*, February 1, 1999, accessed on August 16, 2018, 8, <https://www.manhattan-institute.org/html/products-liability-and-threat-contraception-5667.html>; Noelle Collins, "It Got Under Their Skin: Advertising Negates Defense in Norplant Case," *ABA Journal* 85:12 (December 1999): 36.

⁶¹ "FDA Reaffirms Safety of Norplant," *Mealey's Litigation Reports: Norplant* 1:21 (September 8, 1995): 6, Lawyers' efforts in these test trials proved to be challenging from the start, partially because in 1995, the FDA reaffirmed Norplant's safety. Additionally, in this 1995 ruling, the FDA stated that they had worked with Wyeth-Ayerst to improve the informational packets discussing Norplant's risks and benefits.

supreme court, are elected, and there are no limits on the amount of funds an individual can give to any political campaign (plaintiffs' attorneys often made contributions to judges' campaigns).⁶² These circumstances made Texas a breeding ground for mass tort litigation. Norplant was no exception.

In addition to the large MDL, other smaller but significant cases against Norplant were also happening in different parts of the country. In the late 1990s, one lawsuit's bellwether trial was assigned to Judge Mario Ramirez in Hidalgo County, Texas. In this bellwether case, five different firms, one of which was Laminack and O'Quinn, represented the 4,500 plaintiffs. Because the cases in Hidalgo County had survived the pretrial motions that had terminated previous federal suits, plaintiffs hoped these cases would be victorious.⁶³ To strengthen their case, Laminack and O'Quinn employed a jury consultant to locate potential jury members who would be sympathetic to a plaintiff pool dominated by women of color and poor women.⁶⁴ Additionally, during the bellwether cases, some firms, including Laminack and O'Quinn, hired phantom jurors, or shadow jurors, to observe the trial and communicate their reactions to the jury consultant or counsel. One lawyer remembered meeting with phantom jurors for three to four hours after each day's courtroom proceedings. The phantom jurors helped the litigators gauge the jurors' reactions to the trial. Despite these efforts, in early 1998, eight days into the trial, one of the plaintiff's attorneys accused another of encouraging his client to lie about being examined by a particular medical professional and expert witness forcing a

⁶² Angell, *Science on Trial*, 146.

⁶³ Arkin, "Products Liability and the Threat to Contraception," 8.

⁶⁴ González interview by Licata, November 7, 2018.

frustrated Judge Ramirez to rule a mistrial. When releasing the jurors, Ramirez stated that he was “totally disgusted.”⁶⁵ Wyeth-Ayerst’s defense attorneys objected to Ramirez’s ruling, arguing that the plaintiffs purposely forced a mistrial because they were likely to lose.⁶⁶ Separately, in an unrelated disciplinary proceeding, two Texas attorneys were disqualified from participating in state Norplant cases because they had knowingly hired a legal assistant who had formerly worked for Wyeth-Ayerst. This left three thousand plaintiffs in Texas in need of new legal representation. Another setback for the lawyers occurred in September of the same year when after a jury in Brownsville, Texas listened to over two weeks of medical testimony, they only took two hours of deliberation before ruling in Wyeth-Ayerst’s favor.⁶⁷

Turner and Parks, the lawyers heading the massive Norplant MDL, similarly struggled to convince a judge that Wyeth-Ayerst was responsible for Norplant user’s suffering. By the late 1990s, over 160 class action lawsuits had been consolidated into the nationwide federal multidistrict case, involving 31,112 plaintiffs.⁶⁸ Once the MDL’s bellwether case was put to trial in 1999, it was apparent that the evidence against Wyeth-Ayerst was weak. Like many other lawyers, Turner and Parks focused their case on the

⁶⁵ Emma Perez-Trevino, “Norplant Contraceptive Case Ends in Mistrial, Lawyer Accused of Asking for Lie,” *The Brownsville Herald*, January 24, 1998, accessed on August 22, 2018, https://www.brownsvilleherald.com/news/local/jan-norplant-contraceptive-case-ends-in-mistrial-lawyer-accused-of/article_9766c372-7a1e-5746-ab92-d09f9526bbf3.html

⁶⁶ Arkin, “Products Liability and the Threat to Contraception,” 10; Perez-Trevino, “Norplant Contraceptive Case Ends in Mistrial, Lawyer Accused of Asking for Lie,” Jane E. Bocus, member page, Dykem Cox Smith, accessed on August 22, 2018, https://www.dykema.com/professionals-jane_e_bocus.html.

⁶⁷ Arkin, “Products Liability and the Threat to Contraception,” 10; “Jury Finds for Norplant Implant Manufacturer,” *Contraceptive Technology Update*, November 1, 1998, accessed on April 30, 2019, <https://www.reliasmedia.com/articles/39327-jury-finds-for-norplant-implant-manufacturer>.

⁶⁸ “Judicial Panel Transfers Seven More Actions to Texas,” *Mealey’s Litigation Reports: Norplant 2:4* (December 21, 1995): 5. Carter, “Setting the Ground Rules”, 33.

issue of informed consent, alleging that Wyeth-Ayerst had failed to sufficiently inform consumers and prescribing medical professionals about Norplant's dangerous side effects.⁶⁹ They also maintained that Wyeth-Ayerst's aggressive advertising featured in popular women's magazines such as *Cosmopolitan* and *Vogue* led consumers to have unrealistic and false expectations, and because patients went to their doctor appointments with preconceived ideas about the new wonder drug, physicians were unable to conduct proper informed consent procedures.⁷⁰

In response to these allegations, Wyeth-Ayerst Laboratories cited the learned intermediary doctrine, which states that a manufacturer of a product is required to provide all obligatory information about their product to the "learned intermediary" and not the consumer. In this case, the "learned intermediaries" were the prescribing medical professionals, which made them, not Wyeth-Ayerst, responsible for providing their patients with the necessary counsel regarding both Norplant and all other birth control options. The court agreed with this argument and required the plaintiffs to provide evidence that Wyeth-Ayerst had not provided prescribing medical professionals with accurate and or thorough information about Norplant and its side effects. The plaintiffs responded by presenting depositions from doctors and nurses, who professed to be

⁶⁹ Memorandum in support of Motion for Partial Summary Judgement Re Adequacy of the Norplant Labeling, In the United States District Court From the Eastern District of Texas Beaumont Division, May 25, 1999, MC 748, box 129 folder 2: Norplant Vogel v. Wyeth legal papers 1994-1999 3 of 3, SSP, SL; Arkin, "Products Liability and the Threat to Contraception," 9.

⁷⁰ Arthur Best, David W. Barnes, Nicholas Kahn-Fogel, *Basic Tort Cases, Statutes, and Problems*, (New York: Wolter Kluwer, 2018), 767; In Re Norplant Contraceptive Products Liability Litigation, United States District Court for the Eastern District of Texas, Beaumont Division 215 F. Supp. 2d 795; 2002 U.S. Dist. LEXIS 16929, August 14, 2002, 34.

unfamiliar with all of Norplant's side effects. For instance, many claimed they did not know that the contraceptive device could cause mood swings or depression.⁷¹

To refute these claims, the defendants offered testimony from Dr. Anita Nelson, a board certified obstetrician-gynecologists and Associate Professor of Obstetrics and Gynecology at the University of California Los Angeles (UCLA) medical school. Nelson, who was deeply involved in Norplant's testing in the 1980s and its introduction to the American market in the early 1990s, spoke with some of the women who participated in the studies and conducted trainings for physicians and nurse practitioners. In her deposition, Nelson drew attention to Norplant's close similarities to other forms of birth control. The hormone used in Norplant, levonorgestrel, could also be found in a number of other contraceptive options, including an assortment of IUDs and emergency contraceptives. Consequently, because all Norplant devices came with informational inserts that discussed the drug's side effects, she argued that all prescribing medical professionals should have been aware of the risks and that it was their responsibility to make sure their patients were also aware of the risks and side effects.⁷² In addition to Nelson's testimony, the defendants challenged the credibility of the experts' testifying on the plaintiffs' behalf by disclosing that none had ever prescribed Norplant to a patient.⁷³ Ultimately, the court determined that the plaintiffs did not "prove that even a single

⁷¹ In Re Norplant Contraceptive Products Liability Litigation, August 14, 2002.

⁷² In Re Norplant Contraceptive Products Liability Litigation, August 14, 2002, 32.

⁷³ In Re Norplant Contraceptive Products Liability Litigation, August 14, 2002, 34.

healthcare provider who prescribed Norplant was not fully aware of the 26 side effects listed as ‘Adverse Reactions’ in the Norplant physician labeling.”⁷⁴

This series of legal losses led to a very small settlement between Wyeth-Ayerst and the plaintiffs. In August 1999, the pharmaceutical company settled out of court with about thirty-six thousand of the fifty thousand plaintiffs. In the fifty million dollar settlement agreement, American Home Products, Wyeth-Ayerst’s parent company, agreed to pay each of these plaintiffs about \$1,500.⁷⁵ A Wyeth-Ayerst representative described their resolve to settle as “purely a business decision,” stating that the cost of fighting hundreds of cases was cutting into their ability to fund research.⁷⁶ Having hoped for a much larger payout, one of the lead attorneys told the *New York Times*: “It’s a total disappointment.”⁷⁷

Even though the courts ruled in Wyeth-Ayerst’s favor, the class action lawsuits and the associated negative media coverage gravely impacted Norplant’s sales. In 1991, when Norplant was first placed on the American market, its sales grew rapidly. In just under a year, over one hundred thousand women had been prescribed the contraceptive device in the U.S., and its sales continued to increase the following year.⁷⁸ As the number

⁷⁴ In *Re Norplant Contraceptive Products Liability Litigation*, August 14, 2002, 34; Best, Barnes, Kahn-Fogel, *Basic Torte Cases, Statutes, and Problems*, 767. This was not completely true for all the cases filed in New Jersey because within that state the learned intermediary doctrine did not apply when a manufacturer of prescription drugs or medical devices marketed its products direct to the consumer.

⁷⁵ David J. Morrow, “Maker of Norplant Offers Settlement in Suit Over Effects,” *New York Times*, August 27, 1999, A1.

⁷⁶ Morrow, “Maker of Norplant Offers Settlement in Suit Over Effects,” A1.

⁷⁷ Morrow, “Maker of Norplant Offers Settlement in Suit Over Effects,” A1.

⁷⁸ Heather Zesiger, “Norplant -- A Case Study of One Contraceptive’s Boom and Bust Experience,” *Reproductive Health Technologies Project*, August 14, 1998, box 239 folder 4: RHTP [program- Boom and Bust- research- Norplant case study] 1998, BHR, SL; Tamara Lewin, “5-Year Contraceptive Implant Seems Headed for Wide Use,” *New York Times*, November 29, 1991, A1; Milt Freudenheim, “Two Drug Companies Had Profits in the First Quarter,” *New York Times*, April 15, 1992, D7.

of class action suits grew and the media began to pay attention to patients' horror stories, sales fell. Whereas in 1992, Norplant sales were \$120.7 million, just five years later, that figure had plunged to \$4.4 million.⁷⁹

Due to the steep decline in sales, in July 2002, Wyeth-Ayerst removed Norplant from the American market. The pharmaceutical company offered to pay for patients' removal of the device through the end of the year.⁸⁰ The Population Council considered introducing another implantable birth control device, Jadelle, which was FDA approved in 1996 and consisted of two implantable rods instead of six. Because of Norplant's severely tainted reputation, Jadelle was never released in the U.S.⁸¹

In the mid-1990s, the success of the breast implant litigation convinced class action lawyers to pursue a cacophony of lawsuits against Wyeth-Ayerst. These suits often involved poor and minority women who had been pressured to use the contraceptive. Lawyers argued that Wyeth-Ayerst failed to provide healthcare professionals with accurate and thorough information about Norplant. While the litigation failed to win the plaintiffs a large settlement, the class action lawsuits and the publicity surrounding them led to a decrease in Norplant sales, which ultimately led Wyeth-Ayerst to remove it from

⁷⁹ Morrow, "Maker of Norplant Offers Settlement in Suit Over Effects," A1. Leslie Berger, "After Long Hiatus, New Contraceptives Emerge," *New York Times*, December 10, 2002, F5; Also, in 2000, Wyeth-Ayerst issued a Norplant recall because there was evidence that a number of the devices could be defective, but they were later found to be effective.

⁸⁰ Berger, "After Long Hiatus, New Contraceptives Emerge," F5

⁸¹ Shari Roan, "Makers of Norplant Decide to Take Product Off the Market," *Los Angeles Times*, August 5, 2002; Leslie Kux, Assistant Commissioner for Policy, "Determination That JADELLE (Levonorgestrel) Implant, 75 Milligrams, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness," *Food and Drug Administration*, August 25, 2014, accessed on March 8, 2019, <https://www.federalregister.gov/documents/2014/08/29/2014-20634/determination-that-jadelle-levonorgestrel-implant-75-milligrams-was-not-withdrawn-from-sale-for>. Occasionally, Jadelle was referred to as Norplant-2.

the American market in the early 2000s. While many women's health activists saw this as a success, much of the public remained unaware of Norplant's problematic ties to population control and eugenics policies. Women of color and poor women continued to struggle against negative stereotypes painting them as irresponsible and promiscuous.

CHAPTER VI

EPILOGUE: NORPLANT FORGOTTEN

While many feminists celebrated Norplant's removal from the American market, much of the public remained blind to the drug's link to population control policies. Reproductive justice and women's health advocates hoped that their campaigns highlighting Norplant's risks and links to eugenic practices would inspire pharmaceutical companies to develop better birth control options and encourage governmental institutions to pass regulations that would ensure women would not suffer from forcible or coercive sterilizations. Instead, the public quickly forgot the controversy surrounding Norplant, and in 2006, just four years after Wyeth-Ayerst stopped distributing Norplant in the U.S., the Food and Drug Administration (FDA) approved another contraceptive subdermal implant that would later be used to temporarily sterilize incarcerated women.

In the 2000s and 2010s, reproductive justice and women's health activists made efforts to inform the public and policymakers of the history of reproductive abuses linked to long acting reversible contraceptives (LARCs), including Norplant, intrauterine devices (IUDs), and injectables, like Depo-Provera. These efforts inspired important changes in feminist discussions around reproductive rights. Today, many women's health activists and organizations have adopted a reproductive justice platform that seeks to

represent all women's reproductive experiences. Additionally, feminists and women's health organizations speak out against incentivizing policies and coercive prescribing practices that encourage the use of any particular method of birth control. Still, much of the public, including lawmakers, judges, and healthcare professionals, remain unaware of Norplant's history and LARCs connection to forcible sterilization practices. Therefore, the potential of reproductive abuse persists.¹

In 2006, the FDA approved a new subdermal contraceptive device known as Implanon. Unlike Norplant, which consisted of six progestin filled rods and prevented pregnancy for a five year period, Implanon was made up of a single progestin filled rod that was inserted under the skin of a woman's arm and prevented pregnancy for three years.² Because it used the same technology as Norplant, some Implanon patients experienced similar side effects, including irregular and unpredictable bleeding, weight gain, mood swings, and headaches. Before it was made available in the U.S., Implanon underwent eighteen clinical studies in countries like China, Finland, Indonesia, Sweden, and Thailand. While none of the drug's trials included adolescent girls, Merck & Co., Inc., the drug's developer, relied on a study of teenage girls' responses to Norplant to support doctors' prescribing Implanon to adolescents. Many scientists examining Implanon's testing trials similarly made direct comparisons to Norplant's studies. The science community that supported Implanon's FDA approval did not discuss Norplant's

¹ Michelle Isley, "Implanon: The Subdermal Contraceptive Implant," *Journal of Pediatrics and Adolescent Gynecology* 23 (2010): 364; Sarah Christopherson, "NWHN-SisterSong Joint Statement of Principles on LARCs" *National Women's Health Network*, November 14, 2016, accessed on January 18, 2020, <https://www.nwhn.org/nwhn-joins-statement-principles-larcs/>.

² Isley, "Implanon: The Subdermal Contraceptive Implant," 364.

and Implanon's potential link to population control practices in the U.S. or around the world.³

A few years after Implanon was introduced to the public, Merck & Co., Inc. released Nexplanon. This subdermal implant used the same contraceptive technology as Implanon with one slight alteration: Nexplanon implants contain sulfate barium, allowing it to be visible on X-rays. While this modification was minimal, it made it easier for healthcare professionals to monitor the device after insertion. Once Nexplanon was approved for use, Merck & Co., Inc. stopped distributing Implanon devices, replacing them with Nexplanon, which are still available for use in the U.S.⁴

In May 2017, General Sessions Judge Sam Benningfield signed an order that offered an early release date to inmates in White County, Tennessee, who were willing to undergo a temporary sterilization procedure. Participating male inmates would undergo a vasectomy, and female inmates would have Nexplanon inserted, and all who chose to participate in the program would be released thirty days early. While the order was in effect, seventy inmates, thirty-two women and thirty-eight men, agreed to submit to the temporary sterilization procedure. This represented about thirty-two percent of the prison's population. Benningfield told a reporter that he developed the incentive program after removing several children from the custody of their formerly incarcerated parents

³ Isley, "Implanon: The Subdermal Contraceptive Implant," 365; H.B. Croxatto and L. Mäkäräinen, "The Pharmacodynamics and Efficacy of Implanon® An Overview of the Data," *Contraception* 58:6 (1998): 91S-97S; Arijit Biswasa, Osborne A.C. Viegasa, Herjan J. T. Coeling Benninkb, Tjeed Korverb, Shan S. Ratnam, "Implanon® contraceptive implants: effects on carbohydrate metabolism," *Contraception* 63 (2001): 137-141.

⁴ Célia Pedroso, Isabel Martins, Fátima Palma, Ana Isabel Machado, "Implant Site Nexplanon Reaction?" *BMJ Case Reports* (2015): 1.

because a mother tested positive for drug use and witnessing how a parent's drug use led to child neglect.⁵

Deonna Tollison was one of the women who agreed to participate in Benningfield's order. In 2017, Tollison was a single mother struggling to raise her two youngest daughters and her niece. Following years of substance abuse and run-ins with the law, she was struggling to regain control of her life when she violated the terms of her house arrest by making unauthorized trips to the grocery store and allowing the batteries in her ankle monitor to die. These breeches of her agreement led Benningfield to send her back to the county jail to serve out the rest of her sentence. When she became aware of the order, Tollison quickly signed up to receive the Nexplanon implant in exchange for thirty days off her sentence. After sitting through the required prenatal health class that emphasized the effect drugs could have on a fetus, Tollison underwent the Nexplanon insertion procedure. Following her release, Tollison told a journalist that the opportunity to escape prison was what motivated her to participate in the program. "People will do anything to get out of there," she said.⁶

Just weeks after Benningfield initiated the order, the media made the public aware of the incentive program, and a backlash ensued. Journalists and lawyers compared the order to other incidents of forced and coerced sterilizations and the U.S.'s long history of eugenic practices. One constitutional law attorney called the order an "outrage" arguing

⁵ Elise B. Adams, "Voluntary Sterilization of Inmates for Reduced Prison Sentences," *Duke Journal of Gender Law and Policy* 26:23 (2018): 23-25.

⁶ Jessica Lussenhop, "We were guinea pigs": Jailed Inmates Agreed to Birth Control," *BBC News*, August 18, 2017, accessed on January 5, 2020, <https://www.bbc.com/news/world-us-canada-40955288>.

that Benningfield should lose his position on the bench and his license to practice law.⁷ Benningfield claimed that this response to the order shocked him and that he was surprised to learn that many of the participating inmates agree to undergo the procedure only to secure the early release. He altered the order to include a document for inmates to sign stating that they were not participating in the program exclusively for the reduced sentence. But by this point, the opposition to the order had grown to include several powerful institutions and individuals, including the American Civil Liberties Union (ACLU) in Tennessee, district attorneys, and state legislators. Ultimately, Benningfield ended the program after six weeks and before any of the male inmates received their vasectomies.⁸

In the early 1990s, doctors and the medical industry told women that Norplant would give them greater reproductive freedom. For some women, the prediction was correct. Yet for many poor and minority women, the potential for abuse tarnished their relationship to Norplant. Although many feminists considered Norplant's removal from the American market in 2002 a victory, the battle for reproductive justice continues. For many health activists, Norplant remains a vivid reminder of oppressive sterilization policies aimed at poor and minority women and contraception's link to population control politics.

Even though most of the general public has forgotten Norplant's connection to temporary sterilization practices, reproductive justice activists have not. Instead, this

⁷ Daniel A. Horwitz, "Eugenics is Illegal," *Supreme Court of Tennessee Blog*, July 21, 2017, accessed on January 7, 2020, <https://scotblog.org/2017/07/eugenics-is-illegal/>.

⁸ Lussenhop, "'We were guinea pigs': Jailed Inmates Agreed to Birth Control," 2017.

women of color and indigenous women led movement used Norplant's history to encourage significant changes within the reproductive rights movement. In the past, the reproductive rights agenda focus almost exclusively on issues related to white women's reproductive experiences: access to effective birth control and safe and legal abortions. Thanks to the work of countless reproductive justice activists, today, about thirty years after Norplant's FDA approval, this agenda has been transformed to better reflect the experiences of all women, including concerns around coercive sterilizations. The swift response to Judge Benningfield's order shows that this more inclusive and sophisticated approach to reproductive rights has permeated beyond the feminist movement.

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Choice U.S.A. Record

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Native American Women's Health Education Resource Center Records
SisterSong Women of Color Reproductive Justice Collective Records
Women of Color Resource Center

Vanderbilt Television News Archive, Vanderbilt University, Nashville, Tennessee
(Assorted videos cover Norplant and the class actions suits against Wyeth-Ayerst Laboratories)

Newspapers and Periodicals

*I have searched these publications via a search engine, and all have yielded articles on Norplant between 1980 and 2011.

Albion Monitor
American Bar Association Journal
American Bar Association Journal
Associated Press
The Brownsville Herald
AP Business Writer
AP Medical Writer
Baltimore Sun
Chicago Defender
Chicago Tribune
Dallas Morning News
Essence Magazine
Forbes
Glamour Magazine
Houston Press
Independent Tribune: The Local Voice of Greater Cabarrus County
Mealey's Litigation Reports
Ms. Magazine
Newsweek
The News-Sentinel
The New York Times
The New York Times Magazine

Philadelphia City Paper
Philadelphia Inquirer
off our backs
The Orlando Sentinel
The Recorder
The Sun Sentinel
Time Magazine
Toronto Star
The Wall Street Journal
Washington Post
Washington Times
Vogue

Oral History

Author's Interviews

Interviews were recorded and are in my possession.

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González, Arthur. Video Chat Interview. November 7, 2018.

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Ross, Loretta J. Video Chat Interview. July 19, 2018.

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<https://www.smith.edu/library/libs/ssc/vof/vof-intro.html>

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Martinez, Luz Alvarez. Interview by Loretta Ross. December 6-7, 2004.

Rodriguez, Luz. Interview by Loretta Ross. June 16-17, 2006.

Ross, Loretta. Interview by Joyce Follet. November 3-5, 2004; December 1-3, 2004; February 4, 2005.

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