An event in honor of the 35th Anniversary of Roe v. Wade

THE PAST AND FUTURE OF REPRODUCTIVE RIGHTS IN NEW YORK STATE

When: Tuesday, January 22, 2008 at 7:00 p.m.

Where: Center for Constitutional Rights, 666 Broadway, 6th Fl. (between Bleecker & Bond Streets)

Recent restrictions on abortion rights and access to contraception at the federal and state levels, including the Supreme Court’s recent decision concerning the federal abortion ban, have further rolled back women’s right to self-determination. In the face of these persistent attacks on our rights, what strategies and analysis are useful in our work to try to defend and advance the struggle for women’s ability to control their reproduction? This event brings together activists, attorneys and allies to discuss past and recent victories and set-backs in the fight for reproductive rights, how these can be applied to our work today and ideas for action.

Speakers include:

Annie Tummino
Co-chair of the Women’s Liberation Birth Control Project and lead plaintiff in a lawsuit challenging the FDA’s failure to approve the Morning-After Pill as an over-the-counter drug without any age restrictions.

Rhonda Copelon
Professor of Law and Director of the International Women’s Human Rights Clinic of the City University of New York School of Law, former CCR staff attorney and lead attorney in Harris v. McRae, which challenged the Hyde Amendment federal restrictions on the use of Medicaid funds for medically necessary abortions.

Nancy Stearns
Lead attorney in CCR’s 1972 landmark case, Abramowicz v. Lefkowitz, which was the first challenge in the nation on behalf of a class of women to declare the NYS ban on abortion unconstitutional. The case sparked similar challenges in other states and created precedent for the Supreme Court’s decision to legalize abortion in Roe.

Introductory remarks:

Andrea Costello
Organizer with Redstockings Allies and Veterans of the Women’s Liberation Movement and CCR Staff Attorney.

Organized by:
The Women’s Liberation Birth Control Project & The Center for Constitutional Rights

The Women’s Liberation Birth Control Project is an organization that fights for justice for women, including our right to birth control and abortion. We are building a feminist movement to win reproductive control and true equality with men. www.birthcontrolproject.org

The Center for Constitutional Rights is dedicated to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights. Founded in 1966 by attorneys who represented civil rights movements in the South, CCR is a non-profit legal and educational organization committed to the creative use of law as a positive force for social change. www.ccrjustice.org

For more information, call Lauren Melodia at (212) 614-6481
Remarks at Event Commemorating the 35th Anniversary of Roe v. Wade held at the Center for Constitutional Rights 1/22/08

By Annie Tummino, National Women’s Liberation Co-Chair

Good evening. I’m honored to be here with Nancy Stearns and Rhonda Copelon. I’m very grateful to learn more of our feminist history, and to have an opportunity for a discussion with people who want to continue the fight today.

My parents were pro-choice and I grew up supporting a woman's right to choose. However, I didn't become truly passionate about abortion rights until I started to learn about the history of the women's liberation movement through working with Redstockings Allies and Veterans, a group that brings together veteran activists of the 1960s with feminists who are newer to the movement such as myself.

Previously, I had thought abortion was important to defend, but the widespread notion of "women's choice" did not really invigorate me. People make lots of choices—about what kind of car to buy, where to live, what color to die their hair. And of course, I agree with the principle that individuals have a right to their choices.

Still, there is something more to abortion rights than just the idea that women merely have the right to choose it. I wasn't able to articulate this on my own, but when I learned the radical feminist analysis on abortion, it hit home.

Through working with women's liberation activists, I learned that feminists fought for abortion rights in the 1960s and 70s because they believed that it was a cornerstone of women's freedom and self-determination. That in order for women to have equality with men on the job and in the family, we must be able to decide when and if we are having children. Now this analysis really resonated in my gut. I knew that if I got pregnant before I was ready and forced to have a child, my whole life would change. My dreams, my hopes would change drastically. I also knew that the guy's life would not necessarily change to such a degree. Men have a lot more freedom to opt-out of responsibility. Even now that I am married and thinking about having kids in the future, I can see how having a child will effect me in ways it won't affect my partner—after all, I'm the one that will be pregnant for 9 months, go through child birth and breastfeed. Plus, women are still more likely to make sacrifices to their careers and do more of the housework and parenting work. So for me having abortion rights is not just about choice or privacy—-it's an important part of women having some power—-not just over our bodies, but over our destinies and our lives.

Many people know that the Supreme Court case Roe v. Wade, which we are celebrating today, resulted in the legalization of abortion in 1973. However, the court did not "give" women abortion rights. In fact, Roe is a victory that was borne through feminist struggle and with the added punch of a legal strategy developed by lawyers like Nancy. Examining this history yields all kinds of lessons that we can apply today.

In the 1960s there were groups of lawyers, doctors and clergy that were advocating for reforms of the abortion laws. However, these reforms only would have helped a small minority of women. For example, the reformers said a woman should be able to obtain an abortion if she
already had 4 children, if she was a victim of rape and incest, or deemed mentally unstable. In contrast, the women's liberation movement argued that ALL women must have the right to abortion for any reason. They knew from their experiences that those kind of reforms wouldn't help them or most women - most women needed abortions because they didn't want to be forced to have a kid when they didn't want to. It wasn't some extreme case. Instead of arguing for reform of the laws, radical feminist groups such as Redstockings were fighting for a much deeper change- the repeal of ALL laws restricting abortion.

In 1969 Redstockings broke up a hearing of the NY State Legislature. The legislature was holding a panel of so-called experts, to discuss possible changes to the abortion law. The panel consisted of 15 people- 14 men and 1 woman, who was a nun! They distributed a flyer that said, "The only real experts on abortion are women" and demanded that they be allowed to testify. The New York Times, Newsday, the NY Daily News and the New Yorker all ran articles covering this major women's liberation action.

A month or so later, Redstockings held the first ever public abortion speak out at the Washington Square Methodist Church in NYC, to a crowd of 300 people. Women testified about their painful experiences with back-alley abortions, or having to bring a pregnancy to term and give the baby up for adoption. Sharing such testimony publicly, when abortion was an illegal act, was a major break through. Speak-outs spread around the country like wildfire along with the women's liberation movement. In fact, a young attorney named Sarah Weddington (the lead attorney in Roe) was a member of Austin Women's Liberation. Although she was not yet ready to speak about her own illegal abortion, she was inspired to use her skill as a lawyer to fight for abortion rights.

In New York State the combination of protests, speak-outs, and legal action forced the politicians into a corner. As Nancy discussed, in 1970 New York passed the most liberal abortion law in the country, legalizing abortion through the second trimester. At the time a more restrictive law was also on the table, but then Governor Rockefeller opposed it, warning that anything less liberal would further mobilize the forces for repeal. So while feminists ended up with a compromise from their original demand, the law was still a landmark change. When the Supreme Court ruled in Roe v. Wade, it used the NY law as its model. So we can be proud that the feminist movement was so strong in New York State, and helped produce a national change.

The challenge today is to figure out how we can move forward in the face of ever increasing attacks on contraception and abortion. Most of you are familiar with the fact that abortion rights have been steadily eroded over the last several decades, through restrictions on federal funding, age restrictions, mandatory waiting periods, harassment of abortion doctors and more. Recently the right wing has also been stepping up attacks on contraception and pushing abstinence-only education.

I am happy to say that I helped to organize for at least one reproductive rights victory- probably our biggest victory since Roe. After a long fight, the Morning-After Pill is now sold at pharmacies without a prescription to women ages 18+. Also called Plan B or Emergency Contraception, the Morning-After Pill is a dose of hormones that can prevent pregnancy after sex. It has no long term or serious side effects and thirty-eight countries around the world made it available over-the-counter prior to the United States. Here, women had to get a doctor's
prescription and then get to a pharmacy in order to obtain the pill. Given that it’s most effective if taken within 24 hours of sex, the prescription requirement was a huge obstacle for most women.

The Morning-After Pill Conspiracy, a national coalition of feminist groups that I help coordinate, played a leading role in fighting for over-the-counter access. We purposefully drew on the strategies and ideas of the women’s liberation movement in our organizing. Just like the movement to repeal all abortion restrictions, we argued that there should be NO restrictions on the Morning-After Pill. Some groups focused on incremental changes, like pushing Emergency Rooms to make Plan B available to rape victims. While we agreed that was needed, we felt such a change would not help the vast majority of women, who usually need the Morning-After Pill because of a slipped condom or getting behind on birth control pills.

The coalition held consciousness-raising sessions and speak-outs in NYC, Washington DC and Florida. When the FDA was holding hearings, we organized women to testify from their personal experience, on the principle that women are the true experts on their lives. When the FDA continued to delay on the application, women from several states converged at their headquarters and held a speak-out and sit-in. We blocked access to their offices, just like they blocked access to birth control for millions of women. Nine of us got arrested and luckily we had Andrea there to get us released and our charges dropped in exchange for community service.

We have also employed a legal strategy. Myself, 8 other women and two organizations became plaintiffs in a lawsuit against the FDA and are represented by the Center for Constitutional Rights and the Center for Reproductive Rights. We are charging the FDA with holding Plan B to a different standard than other drugs and following the anti-birth control politics of the Bush Administration instead of medical science.

Finally, in Aug 2006 the FDA announced that it would remove the prescription requirement— but only for women ages 18 and up. The pill is also stuck behind the counter at pharmacies—rather than being on the shelf, you must show an ID and get it from a pharmacist, who could potentially ask you personal questions or refuse to sell it to you. I personally had an experience of sending my husband to buy Plan B, and he had to fight with a pharmacist, who originally said he couldn’t dispense it to him because he could be giving it to a minor. Many pharmacists are confused by the rules. Additionally, there is an organization called Pharmacists for Life that is pushing for “conscience clause” laws that allow pharmacists not to dispense birth control. Such laws have already passed in several states.

Our lawsuit is still in court, and we hope it will result in the removal of the age restriction. We are also advocating that Congress pass the Access to Birth Control Act, which would make it illegal for pharmacists to refuse to dispense birth control or the Morning-After Pill, or to intimidate or harass women or ask them unnecessary personal questions.

While the Bush Administration is coming to an end, Bush has put abortion rights in serious peril and it is going to take a strong movement to bring them back, and make ADVANCES. Bush has installed two extreme anti-women judges to the Supreme Court. Recently, the Court ruled that the Federal Abortion Ban, which Bush signed into law, is constitutional. In 2006 the court opposed an almost identical Nebraska law. This shows how the court’s new make-up is affecting reproductive rights.
The Federal Abortion Ban is a law prohibiting an abortion procedure that may be used as early as 12 weeks in a pregnancy. The ban is vaguely worded, putting doctors in a vulnerable position. It also contains no exception for circumstances when a woman's health is at stake. Doctors who violate the ban may be punished by 2 years in prison. The court's decision leaves women out of the equation and allows the potential "life of the unborn" to trump women's health and rights. Similar state bans are being passed around the country. It's an outrageous step in the direction of outlawing abortion in the United States.

In the wake of the Abortion Ban, some states have taken pro-active steps in support of abortion rights. Here in NY, Governor Spitzer introduced the NY Health and Privacy Protection Act. The proposed law would ensure that abortion would remain legal here, even if Roe were overturned. It also modernizes the NY laws, which apparently still treat abortion as a homicide, but with broad exceptions that allow the procedure in many cases. Spitzer's proposal would remove abortion from criminal statutes and make it a matter of professional and medical discretion.

The Spitzer bill would be a welcome step in protecting abortion in NY and updating the law, and I applaud him for taking a pro-active stance on women's rights. However, it would not be a path-breaking move forward, like the 1970 bill. In fact, it replicates some of the problems inherent in Roe, which instituted the trimester system to decide which abortions would be legal. The Spitzer bill states that doctors must decide on a case by case basis when a fetus is considered viable, at which point an abortion is only allowed if the woman's health or life is at stake. This is becoming a very gray area. Back in 1970, feminist pioneer and abortion organizer Lucinda Cisler wrote that:

"All the talk about 'quickening', 'viability' and so on, is based on old religious myths or tied to ever-shifting technology- who knows how soon a three day-old fertilized egg may be considered 'viable' because mechanical devices allow it to survive and grow outside the uterus?" (From "Abortion Law Repeal (Sort of): A Warning to Women," 1970)

Spitzer's bill, like Roe, justifies abortion as part of the right to privacy. In fighting for a lasting and national solution, I think we should consider taking abortion out of the privacy framework and putting into the framework of justice and equality for women. Ruth Bader Ginsburg, in her dissent on the Federal Abortion Ban, spelled out the equality argument in a very eloquent way. She wrote that:

"Women, it is now acknowledged, have the talent, capacity, and right 'to participate equally in the economic and social life of the Nation.' Their ability to realize their full potential, the Court recognized, is intimately connected to 'their ability to control their reproductive lives.' Thus, legal challenges to undue restrictions on abortion procedures do not seek to vindicate some generalized notion of privacy; rather, they center on a woman's autonomy to determine her life's course, and thus to enjoy equal citizenship stature."

Pat Eddington, Democrat of long island in the NY State Assembly, introduced a bill, the Women's Reproductive Domain Act, which attempts to put abortion rights within this framework. It says that, "THE PREGNANT WOMAN'S FINAL DECISION OVER THE EMBRYO AND FETUS...SHALL BE SUPREME AND NO OTHER ARBITRATOR MAY INTERVENE IN THE FORMULATION OF THAT DECISION." Furthermore, it concludes that
"ANY ATTEMPT TO DIMINISH THE RIGHTS OF THE WOMAN OVER THE FETUS OR EMBRYO CONSTITUTES A FORM OF DISCRIMINATION."

I would urge people to contact their representative and ask them to support the bill. While some might say that passing such a bill would be unrealistic, I think that the 60s movement shows that “fighting for what you really want,” in the words of Redstocking Kathie Sarachild, pays off. (See Sarachild’s article “Going for What We Really Want” in the book Feminist Revolution, available through http://www.redstockings.org). Fighting for repeal of all abortion restrictions lead to Roe. Fighting for the Morning-After Pill without any restrictions yielded a decision in favor of women ages 18 and up. If we had started off with lesser demands, it's quite possible that the most we ever would have gotten is abortion when you already have 4 kids or are considered insane. I also believe if not for the consistent pressure from the feminist, legal and medical community on the Plan B application, it probably would have just been delayed indefinitely and never passed.

In addition to working to change the laws, we need to support the fight for a national health care system that would make abortion as well as contraception affordable for all women. National Health Care is a top issue in the upcoming election. Getting a Democrat in office is not going to solve our problems automatically. But it could provide conditions under which we can win some important changes in the area of reproductive rights and health care that we drastically need. We are going to need a strong movement with a sharp aim in order to hold politicians feet to the fire and win much-needed advances.

In conclusion I would like to urge people to check out the literature table. Redstockings runs an Archive for Action that distributes essays, memos, audiotapes and other source documents from the Women’s Liberation Movement to the public. The abortion actions of the 60s I talked about are covered in this yellow packet (hold up). You can also order literature from the Redstockings Archives for Action website at http://www.redstockings.org.

I'd also like to encourage you to come to our next meeting. We hold our meetings the second Monday of every month. The 1960s fight shows us that no change will be made without an organized feminist movement. So I hope to see you at a meeting.

Copyright Annie Tummino Jan 2008