

# KELLEHERS AUSTRALIA

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## In-House Memorandum

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### *Feminism and Surrogacy*

Kellehers Australia was delighted to present at an International Conference this month entitled 'Topologies of Sexual Difference'. The conference was hosted by the Communication, Politics and Culture Research Centre at RMIT University and organised by the Luce Irigaray Circle, an interdisciplinary society dedicated to the philosophy of Luce Irigaray<sup>1</sup>.

Mr Cameron Algie, Law Clerk at Kellehers Australia, spoke at a morning session on *Law, Embodied Subjects and the Polis* and presented on the topic of '*Luce Irigaray and Bracha Ettinger<sup>2</sup> on the Uterine Relation*', a topic important both to philosophical and legal frameworks around surrogacy.

Whilst law reform and human rights debate has considered the rights of the child and the surrogate, discussion does not consider fully (or philosophically) the period of time the child spends in gestational development *within* the surrogate's body and the human relationship that so forms, let alone the rights arising from it.

Luce Irigaray considers this period of time as an "economy" between mother and child, mediated by the placenta, which is neither aggressive nor fused one-to-another<sup>3</sup>. Essentially, this period of gestation, in her view, establishes a *relationship* between mother and foetus, enabling the latter to grow without exhausting the former.

Like Irigaray, Bracha Ettinger aims to carefully rethink the passage we take to the symbolic order of language. For Ettinger, evoking the prenatal is a way of asserting a *supplementary stratum* for thinking about fundamental questions of human subjectivity (revolving around self and other). This uniquely *feminine* dimension is based on pregnancy pattern, where the uterus is conceived of, not as an origin, nor as an organ of receptivity. Ettinger notes that during this relationship, not only the body, but the sub-conscious is formed and it is a period around which memory will exist.

In both authors, the reference to the uterine relation is not an attempt to essentialize pregnancy as the core of a woman's femininity, rather to allow to a way of thinking about this unique period of co-emergence and differentiation.

Their positions are likely to result in very different legal applications to the law, although this has not yet been examined. Both are careful to show that their conceptions are *ethical* in character and, in some sense, *transgressive* of traditional paradigms of law.

Both Irigaray and Ettinger suggest that we would lose something by neglecting this uterine relation.

Cameron Algie  
19 December 2014

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<sup>1</sup> **Luce Irigaray** [b.1930] is a Belgian-born, French feminist philosopher, linguist and cultural theorist.

<sup>2</sup> **Bracha Ettinger** [b.1948] is an Israeli-born artist, philosopher, psychoanalyst and writer.

<sup>3</sup> The relation between mother and child *in utero* is often misrepresented as being in a state of '*fusion*', whereas it is in reality highly organised and respectful of the life of both mother and child.

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