



## **DALKON SHIELD INFORMATION NETWORK, INC.**

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Testimony for Public Hearing on House Bill #916  
Product Liability

The Dalkon Shield tragedy began twenty years ago and is STILL a living horror for hundreds of thousands of women who trusted the A. H. Robins Company's claims that this birth control device was 100% safe and effective. The origins of the Dalkon Shield tragedy are a necessary reminder for the reason why the "tort reform" bills must not be passed in Pennsylvania.

It was precisely the fierce competitiveness of the marketplace that provided the stage for the Dalkon Shield catastrophe to happen. In 1969, the birth control pill was under attack and entrepreneurs searched vigorously for an alternative to the pill. Dr. Hugh Davis of Johns Hopkins Medical School, the Shield's inventor, falsified his research data, failed to do a safety study yet claimed the Dalkon Shield was not only the most effective but also the SAFEST birth control device on the market. He lied under oath to a Congressional hearing about his personal financial stake in the product. The A.H. Robins Company rushed the Shield into production only six weeks after acquiring the rights from Davis. Robins also did no safety studies but touted the Shield as 100% safe in the aggressive marketing literature aimed at doctors and women. What four million women in the world got for this product was death or the risk of death, lost wombs, empty cribs, and unspeakable injuries whose complications have plagued us all our adult lives.

The Dalkon Shield case represents corporate irresponsibility at its meanest. We all cringe at the personal accounts of violent street crime but crime in the suites planned by ruthless and callous corporate executives causes damage to millions of innocent people. I am bitter that Dr. Davis and the executives of A. H. Robins have so far escaped criminal prosecution for their misdeeds. Furthermore, Robins used the shield of the bankruptcy laws to minimize their liability. What deterrent EXCEPT the present tort system is there to prevent more corporate misconduct like this?

One argument I hear over and over again is that business needs this tort reform in order to regain its competitive edge. Does competitiveness mean America must WIN AT ANY COST, even if that means exposing human beings to death or a lifetime of personal horror for the sake of corporate profits? Does tort "reform" really benefit THE PEOPLE? Tort reform legislation makes a mockery of the concept of reform. The big boys are way ahead of us with their battalions of defense lawyers and highly-paid lobbyists but our voices speak of the pain and misery caused by such self-serving tactics. No where do these bills guarantee that the interests of THE PEOPLE will be protected. The warning flags include the facts that victims' rights will be restricted and businesses will reduce their liability. Tort reform which is supported primarily by big business could lead millions more unsuspecting and trusting people to the same fate.

I feel like the proverbial canary in the cage that the miners took into the shafts with them but the Dalkon Shield tragedy is not an isolated event. Dalkon Shield, Bhopal, asbestos, Agent Orange, and the Pinto have become household words. We recognize the common tactics of corporate irresponsibility AFTER a tragedy occurs. First comes the long denial of wrongdoing. Then comes the interminable stalling strategies, like using scientific data to trivialize the injuries and blame the victims for causing their fates. Then comes the woefully-inadequate compensation to the first wave of mostly uninformed victims. When the victims begin to come forward in larger numbers, the companies now apply to the bankruptcy courts for the protection and join together to blame the tort system for their financial woes. They add insult to injury by offering the myth of "frivolous" lawsuits as their shield from blame.

Last May, I visited with several Indian victims of the Bhopal gas leak disaster. They bitterly note that the seals of Alaska got more media coverage than the human victims of tragedies like the ones we have suffered. Our voices together are getting stronger and louder. We need STRONGER tort laws that protect PEOPLE. Let any legislative reform guarantee a solution to injustice perpetrated against human beings, and not provide a shield for corporate misconduct.