

Human Earrings

Katie Dow, February '17

In 1989, a strange case hit the Old Bailey in London. Canadian artist Rick Gibson and gallery owner Peter Sylveire were both found guilty of the offence of outraging public decency. Gibson's piece, *Human Earrings*, had been exhibited in a show called *The Animal* at Sylveire's Young Unknowns gallery in south London in December 1987. To make the piece, Gibson had obtained two 3-4 month gestation preserved human fetuses from a pathology lecturer. He freeze-dried the fetuses, screwed earring hooks into the skulls and then displayed them on the ears of a plastic mannequin head inside a glass case. Gibson and Sylveire were found guilty of outraging public decency but not, at the judge's direction, of public nuisance. Gibson was fined £500 and Sylveire £350. Their appeal the following year failed.

Outraging public decency is a common law offence in England and Wales. It describes behaviour that is deemed obscene, lewd or shocking in public and it can be punished through fines and/or imprisonment. Typical examples of this crime involve nudity, sex and/or death. Importantly, a member of the public does not have to complain in order for the public decency to be judged to have been outraged. In this case, Gibson and Sylveire were prosecuted when someone tipped off the Metropolitan Police after Gibson, unbeknownst to Sylveire, issued a press release about *Human Earrings*. Various legal scholars have pointed out that, had they instead been prosecuted under the Obscene Publications Act (which covers non-textual work), Gibson and Sylveire would have been able to offer a defence based on artistic expression. So, as the *Sunday Times* (5th February 1989) reported, the fact that they were charged with outraging public decency meant they could offer no evidence of their intentions in making and showing the piece, or relate it to artistic traditions. And because no individual needs to actually claim offence in order for a case to be brought, it was up to the jury to decide if an unidentified 'public' might be offended by the work.

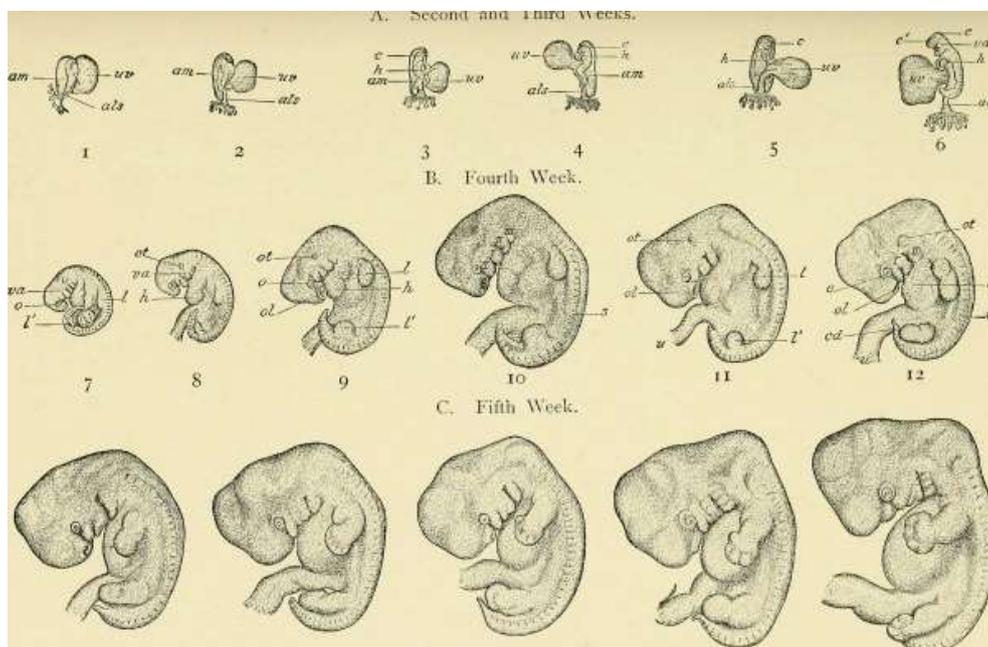
Rick Gibson is certainly no stranger to confronting taboos in his work. As a performance artist as well as sculptor and photographer, he has also shown an enthusiasm for confronting the public with these taboos. For example, in between being charged with outraging public decency and going to trial, he **performed** an act of cannibalism on Walthamstow High Street in east London in 1988 and when he returned to Canada in 1990 he planned to kill a rat in public in order to draw attention to the contradictory attitudes humans have towards non-human animals, which are frequently killed to suit our own needs beyond the public view. The rat was rescued by animal rights campaigners.

Human Earrings was part of his practice of freeze-dried sculpture. He describes the thinking behind this part of his work on his **website**: 'I decided to make sculptures which openly talked about the problem of using dead animals (including humans) as art supplies. All of my materials were legally purchased or obtained from legitimate businesses'. Gibson is **reported** as saying that he is interested in where the law and morality don't seem to quite match up. Apparently, in his press release about *Human Earrings*, he argued that the fetuses were no different from mounting a juvenile animal head on the wall or using a piglet's skin to make a football (*Sunday Times*, 5th February 1989).

Gibson was defended by the human rights lawyer Geoffrey Robertson QC, who has a history of acting in cases involving freedom of speech. Robertson was reported in the *Guardian* explaining that Gibson's work was 'profoundly moral' and a 'comment on the double standards of a society where tens of thousands of fetuses were destroyed every year, and where the pelts of slaughtered foxes and seals were considered an acceptable adornment' (*Guardian* 10th February 1989). It is difficult to fully grasp Gibson's intention from such a dense statement, but as I understand it, *Human Earrings* was a work in which Gibson was exploring both a sense of revulsion about fetuses as objects and cruelty towards animals – especially the idea of animals as resources. Judging by some of his other work, including the freeze-dried pig foetus called *Mother and Child* that he exhibited before *Human Earrings*, he is interested in blurring the line between humans and other animals in order to make us reflect on our attitude to animals, so the fact that the fetuses which he made into earrings were human was not necessarily about a woman's right to choose abortion, so much as a comment on the use of foetal material more generally, along the lines of his point above about 'using dead animals (including humans) as art supplies'.

Gibson made and exhibited Human Earrings in 1987, a time at which human reproduction was newly and uniquely visible. With the photos of Lennart Nilsson and the development of ultrasound, British people had got used to the idea of being able to visualise foetuses and many feminist writers have considered the effects this has had on how we view the pregnant woman and the morality of abortion, as well as practical outcomes for foetal medicine and obstetric techniques. Now, we even have the capability to produce 4D images of foetuses in utero, with private **businesses** springing up offering services such as 'gender scans' and 'baby bonding scans' and some offering 3D printed **models** based on their scans. And, by the 1980s, once the first IVF baby Louise Brown had been born and assisted reproduction seemed a viable enterprise, embryos were a regular topic of public debate.

One of the crucial questions that Human Earrings raises is the difference between embryos and foetuses. Faced with questions about how to regulate the creation, manipulation, storage and disposal of human embryos in the process of assisted reproduction, it is expedient to think of embryos as quite different from foetuses. And, on the whole, members of the British public do seem to think of embryos as quite different from foetuses, and especially so the later in term the foetus is. One reason for this is the existing framework set by the country's abortion law, where termination can be sought up to 24 weeks, the point at which a foetus might be viable independent of its mother's womb, or after that point under certain strict medical circumstances. Another is the fact that foetuses increasingly come to resemble babies, while embryos look, to most people, like blobby cells.



The difference between embryos and foetuses was one of the questions in the background when first the Warnock Committee and then parliamentarians considered how to regulate assisted reproduction and embryological research in the UK in the mid- to late-80s. They were debating moral and religious questions, medical ethics and the fundamental ontological question of what constitutes a human life. In all of this, they were guided by the idea of the **14-day rule**, a line in the sand of embryonic development suggested by biologist Anne McLaren, who sat on the committee and was an important influence on the resulting report. She suggested the **14-day rule** based on the fact that this is the time at which the primitive streak usually emerges in human embryos. The primitive streak, which is the very first beginnings of the nervous system of an embryo, is taken to be the earliest indication of its individuality. The primitive streak is redolent because it is viewed as the sign that this embryo will not always be an invisible blob, but will grow organs and limbs and eventually become a full human person. The 14-day rule went into British **law** and has provided a template for other countries too.

In the foetus earrings case, Judge Smedley found that both Gibson and Sylveire were genuine in their artistic intentions, but said, 'In any civilized society, there has to be a constraint on freedom to act in a way which has an adverse effect on other members of the society in which we live. No man is an island. All our actions can affect others' (*The Times*, 10th February 1989). If Gibson's

intention with this work was to confront social taboos, he couldn't have chosen a much more effective subject, perhaps especially at the time in the late 1980s when the 'pro-life' movement hit its stride and when governments were deciding how to regulate assisted reproduction and embryology. But why was it so effective and what exactly was the public decency that he so outraged? Although part of the 'indecent' of this artwork was his boundary-crossing act of handling fetuses and the violence of screwing earring hooks into the skulls, the true force of this piece is its visual impact. This is reinforced, in a sense, by the fact that I can describe his piece here, just as the newspapers at the time did, without fear of prosecution, but I would feel less comfortable accompanying my text with an image of the piece. Britain is a place in which visual knowledge is given priority and this is as true in science and medicine as it is in everyday life. As the adage goes, seeing is believing. But, it seems that seeing is not only believing – seeing implies a responsibility to take up moral positions towards those things that we have seen.

I believe that one of the reasons why the 14-day rule in the regulation of embryo research was compelling was because it is a *visual* marker – the appearance of the primitive streak is *visual* evidence of the emergence of an individual human life. Similarly, the Metropolitan Police decided that once their attention had been drawn to the fetus earrings they could not turn a blind eye to it – Gibson and Sylveire needed to be prosecuted for putting into public view something that seemed obviously indecent. This is probably one of the reasons why they prosecuted the gallery owner as well as the artist, since without Sylveire, Gibson could not have shown his piece to the public. With Human Earrings, Gibson made us see fetuses, and especially 3-4 month gestation fetuses, which are just at the point of starting to look like little humans.^[1] Although we don't know if the fetuses he used were aborted or miscarried, the piece would probably make most people see abortion too. More broadly, the earrings made us see the close relationship between life and death, the dependency of humans on others and the vulnerability of life. The fact that Gibson chose to make the fetuses into earrings also implies a comment on human frivolity, or the nonchalance with which we turn biological matter into resources, which chimes with his other works.

It is worth remembering that neither embryos nor fetuses were visible until really quite recently and we can only see either now as a result of medical visual technologies. And so, part of the shock factor of Gibson's fetus earrings was the shock of the new, or rather, the formerly invisible. This reminds us of a point that feminists have been making since the 1980s: we can only see embryos and fetuses out of context. We see embryos, now, because they are created, handled and manipulated in labs in the process of infertility treatments and embryological research. We see fetuses through ultrasound, whether through routine scanning during pregnancy, the imagery adopted by 'pro-life' activists or science documentaries. Without medical intervention, we would never normally see them, because they belong inside a womb. Making embryos and fetuses visible entails making their usual context – their mother's body – invisible.



Over the last few decades, we have become increasingly familiar with foetal and embryonic imagery. This has, in part, made the idea of selling optimised foetal imagery to expectant parents thinkable. In the 1980s, part of the objection to Gibson's Human Earrings was probably a sense that fetuses were a bit uncanny, even creepy. Yet now, we have seen them so much that they have become, for many, cute 'unborn' or 'pre-born' children. A quick look on the internet today reveals a range of products available to buy, including – yes, you've guessed it – a more tasteful version of Gibson's work: [earrings](#) decorated with reproductions of Leonardo's drawings of a foetus. As the listing says, 'These darling earrings will make a lovely gift for your midwife! Or for anyone in your life who works with babies or is expecting one'.

References

- Bowcott, Owen. 1989. 'Foetus artist fined £500 for sculpture. *The Guardian*, 10th February 1989.
- Brown, Mick. 1989. Case of artistic merit or indecent earrings. *The Sunday Times*, 5th February 1989

Kearns, Paul. 1992. Not a Question of Art: Regina v. Gibson Regina v. Sylveire. *International Journal of Cultural Property* 1(2): 383-388.

Lewis, Tom. 2002. Human Earrings, Human Rights and Public Decency. *Entertainment Law* 1(2): 50-71

The Times. 1989. Foetus earrings outraged decency; Rick Gibson and Peter Sylveire. The Times 10th February 1989.

[1] See Nick Hopwood's [book](#) *Haeckel's Embryos* for a beautiful and thorough history of how embryos of different species have been visualised.