State Power and Reproductive Freedom

BY MARY O'BRIEN

In 1975 as a slightly irregular graduate student—white-haired, post-menopausal—I was faced with that most complex modern version of the male puberty rite. I had to write a thesis. After several years in school, I realized that I had not the slightest idea of how to do this. As in all ritualistic procedures, uncertainty and cabalism are used to heighten the nervous tension: one is told one must do it, one can do it, but one is never told *how* to do it. Some kind of alchemy will be fused with institutional approval to produce what is referred to as an "original work of knowledge." Now, if my studies had taught me anything, they had taught me that there were precious few original works of scholarship around: I even had a deep suspicion that Plato and the authors of the Book of Genesis had been cribbing from lost oral traditions, exploiting the absence of copyright law. In fact, the only really original stuff that I had read was new feminist writing: de Beauvoir, Millett, and Firestone had published, but hadn't found their way into any of the reading lists that I'd ploughed through. Further, there were no faculty who had actually read this work and, in any case, they thought this stuff (which they hadn't read) was "derivative," they told me. "Derivative from what?" I asked. Cold look. "From the tradition" I was told. It took about three minutes for me to understand that what this meant was that the tradition was essentially and exclusively masculine. Main-stream thought was not main-stream but male-stream thought.

I had of course recognized much earlier, before I went to school at all, in fact, that I wanted to do a feminist thesis, but I had not thought much beyond the notion of providing critical proof of the generic one-sidedness of the vaunted tradition. In this spirit, I had done quite a bit of research for a thesis on John Milton. Milton comes into the curriculum of political theory not as a poet but as a pamphleteer. During the bourgeois revolution in England, he wrote pamphlets for Puritan Liberalism; he was even assigned the task of writing the justification for the execution of the King, which is as fine an omelette of law and ideology as one could ever hope to swallow. But he also composed polemical pamphlets on divorce, advocating divorce by consent, which sounds progressive until one finds out that only the consent of the husband was valid. Not surprising, from the man who used all that poetic power to libel Eve and Delilah. But I was bored with this self-righteous puritan before I even thought about what I might say about him in a thesis, except that I was impressed by the note of hysteria which crept into his voice when he spoke of paternal rights and the power of the "sacred seed" as the true source of life. Fathers would decide, had the right to decide the fate of "their" children and "their" wives, even to the point of divorcing them for not making men comfortable. The great liberal imagination had its limitations. Milton wanted to escape from his own nasty marriage to a much younger and not especially submissive wife. This is known in male-stream thought as "objective analysis." But of course, children and wives were of law for men but merely children of nature for mothers. It would be many years before Somer Brodribb and Sheila McIntyre introduced me to the legal concept of *pater est*: "The mother is always certain. The father is he to whom the marriage points," and to the perception that paternity is a legal fiction rather than, like maternity, a human truth grounded in the materiality of reproductive experience.

But Milton's ideological ramblings, the prose issue of Adam's rib and Lucifer's rebellion, did set me thinking about birth and the implications of the uncertainty of paternity. I had just spent five years reading political philosophy, pondering on notions of power and community, of law and of consent, of States and Constitutions, of tyrannies and parliaments, but I had read very little about birth. There were, of course, Locke and Hegel and such characters, eloquent on the subject of hereditary power and its evils and he-

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reditary property and its goods, but silent on the historical nature of birth. There was not a total neglect of the natural and biological worlds among political theorists—Machiavelli dreaded nature for "her" inconstancy and uncertainty, and Marx in fact rooted his whole philosophy on the material basis of our need to reproduce ourselves and our species; but species production for Marx was a by-product of productive forces. Aha ... that was true ... wasn't it? We have to eat to live at both the individual and species level, and to eat we must work—or some of us must work. Labour. The core of Marx's epistemology. But when I said that word "labour" my understanding went right back to my days as a midwife, and knew that there was more than one kind of labour. In fact, my first immediate understanding of labour was *that* labour which brings forth the child. Maybe I could write a thesis about that? In fact, I did, but not without a great deal of preliminary struggle.

The midwife in me said again and again: birth is cultural; it is a unity of natural and cultural processes. Labour is real. Women may not be able to stop what they are doing, but they know what they are doing. They are conscious of themselves as reproducers.

The struggle came about because I had been taught, in the male tradition, to think dualistically. We understand things by their opposites, or we must separate one thing from every other thing before we understand why it is that particular thing, or we must simply face the fact that we as individuals are doomed to be dualistically constituted because we stand opposed to "The Other": Sartre at his most hysterical extreme, clawing his way out of all these slimy holes of otherness. Even my heroine, de Beauvoir, posited otherness as absolute. So when I tried to think systematically about birth, I was distracted by this notion of otherness, this separation of nature and history, of mind and body, of family and State, of self and others. I had further been taught to think causally, but told that to ascribe causality to the biological world was biological reductionism and to practice biological reductionism was to endanger man's free will. I didn't care too much about man's free will, which I thought to be both exaggerated and abominably abused, and in any case, the midwife in me said again and again: birth is cultural; it is a unity of natural and cultural processes. Labour is real. Women may not be able to stop what they are doing, but they know what they are doing. They are conscious of themselves as reproducers. There is such a thing as reproductive consciousness, and it differs between men and women. Male consciousness is alienated from the process of reproduction. Man is related to his child only by thought, by knowledge in general, rather than by experience in particular—whereas motherhood is a unity of consciousness and knowing on the one hand, and action (reproductive labour) on the other.

It is in this way that I came to develop the notion that not only were the cultural forms of the social and legal relations of reproduction historical, but that the actual process of reproduction, the integration of doing and knowing, which women experience, and the separation which men experience, are historically developed forms of consciousness. I was nervous of this judgement—would I ever dare show it to my even more nervous thesis committee—did I actually believe it myself? If so, why?

I was outraged that none of the works I had read paid any attention to the historical and philosophical aspects of human reproduction: the meaning of birth, the necessity for women's labour to reproduce the species in history. (In political theory, the defence of the State as man's supreme achievement, that which transcends such dubiously human events as birth, livelihood, bodily well-being in the glory of law, order, and power. In making the state, men believe themselves to be making history.) Yet, surely birth is a substructure, a condition of history, surely it is an act, a conscious act of labour? Surely it is not mere biological event but human action? But of course, it is a *women's* act, and few women had written any of the books I had been reading for years, and few women formulated the power and the glory of the state.

Why is it important that birth be understood as historical? Because it is the ground of certain sets of social relations which, I was convinced, needed to be changed, and change is what history is about. Birth itself may be a natural phenomenon, but in fact a great deal of history—in culture, certainly in law, in ideology—has been piled on it. Yet the birth process itself was regarded as changeless, and therefore by definition ahistorical, natural, contingent, occasionally miraculous but usually uninteresting. In and of itself, birth process has no meaning—until men give it one.

In my analysis of the history of birth process, as opposed to the social construction of childrearing or marriage or legal forms which arise from it, I discovered that birth process, when understood as a unity of knowledge and practice, rather than an animal accident, had changed only twice. The first change, a very long time ago, was the discovery of paternity, with all its contradictions of alienation and freedom. Paternity is not present to consciousness in an immediate way, and therefore must have been discovered in historical time and discovered in the mode of causality. The second, indeed the historical condition which I believe has led many feminists to turn to the

process of birth with new understanding, was the change wrought by reproductive technology on a potentially universal scale in our time. In 1975 I and many others could see that this development was enormously significant, that it was what Hegel called a "World-historical event," a happening which would transform not only ancient institutions but which would bring about transformations in our consciousness of ourselves, our bodies, our historical and social being. The questions were: what kind of changes and who would control and direct these changes? How could a State designed to transcend mere birth, crude biology, deal with this historicization of the ahistorical with the politicization of the pre-political? In fact, the State has no difficulty in doing this, for its willing surrogates, the medicine men, the legal establishment, and the scientists, are all ready to face down the possibility that reproductive technology might serve to establish reproductive freedom for women.

I should note that back then, just ten years ago, what I meant by reproductive technology was the pill, but I had read *Brace New World*, and knew it wouldn't stop there. Frankly, I had no perception of the speed of development, that in 1985 we would be dealing with AIDS, surrogating, freeze-dried sperms, and a scientific dramaturgy played out on the stage of petri dishes. I had rather naive visions that reproductive technology would liberate women, usher in reproductive choice and transform the social relations of reproduction fairly directly. I don't believe this was fundamentally wrong, but my time-table was a little sanguine. What was inseparable from the technology question was the question of power and of control. Men have always defined the social parameters of the forms of reproductive relations. They have also controlled technological development. It is this old male control of production, conjoined with new male control of reproduction, which makes the development of reproductive technology a political question, a historical happening of a momentous kind and a renewed struggle for reproductive power. The implications are awesome. There is no single issue which unifies the human need to produce for survival on an individual basis and to reproduce for survival on a species basis in the way that reproductive technology does.

Reproductive technology makes the marriage of capitalism and patriarchy fecund. There is no issue which throws down the challenge to women to seize control of their usurped reproductive power in the way that this issue does. There is no issue in which the holding in balance of the laws of the natural world and the law of the historical world offers us radical choices and possible transformations of such a fundamental kind. I believe that the powerful development of the women's movement in recent years is grounded in the transformation of our reproductive experience, and is not a wave or a spasm but a new unity of species and self-consciousness: feminists understand that these changes require a newer, braver, more just world if they are to be humane and liberating. They also know that we do not have a just world, we do not have the rule of justice. We have the rule of men, patriarchy, a historical megalosaur which does not yet recognize that it has earned extinction. This man's world has consigned the very condition of history—birth—to the world of nature and pure biology which man understands as his enemy. It has constructed the institution of the private realm in which the tasks of birthing and rearing can be controlled by man's grandiose projection of his universality into the state, the public realm. This man's world, in which birth is animal and death is splendid, in which destruction is noble and conservation soft-headed, this man's world in which control of production and reproduction are the political and economic tools of patriarchal survival; this man's world in which the unifying concept of species itself fractures into the divisions of gender, race, wealth, sexuality in a mammoth exercise of divide and conquer: this is the world which created the processes in which women could be oppressed but not obliterated, in which children could be claimed and named but not necessarily cared for: the process in which alienated fathers consolidated a legal claim to real power over women's reproductive lives. This power over women is clearly still not enough: mankind now aspires to buttress that control with the mastery of the natural world, the scientific and technical control of species reproduction, the ultimate triumph over the treacherous inconstancy of nature and her accomplice, women. Reproductive technology and the technology of species destruction are conjoined in a lethal alliance which would negotiate the gap between individual and species by destroying both.

We must never for one moment believe that we are dealing here with pure technology, any more than we believe that star wars are pure science. These are the strategies of a ruling gender dizzy with the power of denying the grounds of human being in the labour of birthing women. This is not, of course, to say that reproduction is in any sense sacred, that it cannot be tampered with, that it is beyond human transformation. Women in particular have clear interests in controlling their

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their reproductive powers, of making choices, of ameliorating the physical agonies of reproductive labour. What it is to say is that the way to go is in the sane and humane utilization of technology in the interests of the species—not in the interests of a scientific, industrial state designed by the patriarchy to maximize men's power, to glorify violence, to reap profits, to mutilate the good earth's abundance. Can one think of a more sterile ambition for any civilization than that of "conquering space," the colonization of emptiness? Can one really think of robotic heroism? The old ideology of the creative power of the divine seed, the sacred sperm, pales beside the notion of automated procreation.

It is against this frenzy that the feminist movement lives and grows and struggles. The changes in reproductive process are both grounds of and challenge to the feminist movement. This is not another sectarian revolt. Feminism has redefined revolution. Always understood as a violent upheaval in the public realm, revolution in feminist terms becomes a non-violent but radical revolution of the private realm, a struggle which breaks down the barriers men have built to control women.

Now, there are political advantages in redefining re-volution, not least of which is the fact that the antagonists do not see what is really happening. Politicians seem to think of us as a new voice (shrill of course), a new vocal minority to be wooed for votes, what I saw described recently as a spontaneous movement rather than a revolutionary one. Employers think of us as a reserve labour force now on the uppity side, needing to be disciplined by low wages and layoffs and part-time participation in the job of earning our, after all, less demanding livelihoods. Some men think of our liberated sexuality as their escape from the bondage of the private realm and the responsibility inseparable from the continuity of the species and the love and care of children. The New Right thinks we have accidentally freed ourselves from comfortably mindless constraints, and should be desperately agitating to have them put back in place. Despite all of this, the transformation of the social relations of reproduction, of gender identity, of women's political sophistication, the development of sisterhood, the challenge to knowledge itself—all of these slowly and painfully proceed. And there is joy in it notwithstanding.

There are also problems galore. Some of these come from the historical hegemony of men which have left us with a legacy of one-sided concepts and speechless languages, which make it difficult to conceptualize our history: to assert the validity of our consciousness and experiences; to recover the history of the species continuity, given reality by women's reproductive labour; to assert a different time consciousness, a new ethics, a sense of unity with nature and life which denies conventional patriarchal preoccupations with crude causalities and violent confrontations, with objectivity eroded by death wishes and subjectivity identified with power. Who is to do all this? Who is to attack all this? Who is to destroy it? Who is to replace it? Women, we answer, and such men who can transcend their own history. But who are women? Here, we stand face-to-face with the misogynist interpretation of patriarchal history, the pro-masculine essence of the State and of knowledge. Edward O. Wilson, the great white father of socio-biology, asserts that "The female of the species is quintessentially a producer of eggs." Quintessence,

you will recall, the fifth essence, was posited by the ancients as the substance forming entities not obviously composed of the four elements of earth, fire, air, and water which their science had identified. Quintessence was also thought to the substance of which the heavenly bodies were formed. This does not seem to be the sort of ascription Wilson had in mind (although my friend Milton would have been quite happy with a quintessence for the sacred sperms). Wilson means essential but more so, and commits this etymological gaffe in his desire to suggest that egg producing is not only an essentially feminine task, but the only significant thing we do. This view of women as essentially breeders, preferably of healthy children with clearly accredited fathers, is the quintessence of patriarchal ideology—a substanceless substantiation. The assertions of the historical significance of reproduction, of the reality of reproductive consciousness, of the moral nature of the mother-child bond: all of these are in danger of slipping into the crude causality and abstract determinisms of socio-biology (and its new step-son, bio-ethics) if we dehistoricize them, if we try to cram them into patriarchal categories of language and thought. The separation of the child, the unknowability of biological parenthood which men experience, produce birth as a causal concept of men's minds rather than as an issue of women's unity of consciousness, experience, and reproductive labour. In their birthing potential, as mothers, as midwives, as carers, women unify nature and history in a way not accessible to masculine experience. We cannot use their abstract notions to construct the society which validates our real collective consciousness as women.

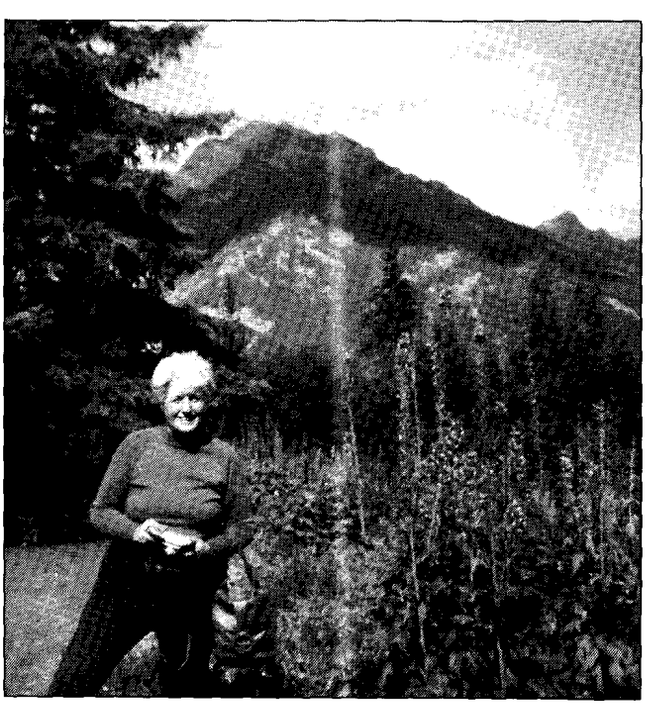
Yet, that alien experience has formed our culture, an alienation which now sees no contradiction between biological and technical determinations, which are as crude in conception as they are sophisticated in execution. The crisis in reproductivity has projected its patriarchal momentum and muddled morality upon the ancient practice of abortion rather than on the crucial contemporary problematics of reproductive technology.

Women's struggles to control their own bodies are historical struggles, and are central to the abortion war, but it is not women who have defined abortion as the single locus of reproductive politics. This strategy serves to deflect attention and energy away from the deeper and more important issue of reproductive technology which is a more powerful weapon of control in terms of patriarchy, which doesn't eat up law officers of the State, and which has a potential for the generation of profit, thereby making it attractive to the ruling class. The abortion struggle is ideological in that it produces a clash between two opposing abstractions, the emptied perceptions of right and an equally empty ideology of pure life. This is a difficult and often divisive issue for women because the whole business is trapped in ideological formulations: pure life on the one hand and the concept of right on the other which, without the legal verification which gives content to right, becomes merely an assertion of "natural" right, pure empty right pitted against pure dehistoricized life. The liberal solution to this impasse, a retreat to situation ethics, is not very satisfactory; the conservative position of sticking mindlessly to patriarchal ideology is even less so.

We cannot bring change by changing the meanings of words, but we cannot identify political strategies of ethical positions by starting with ideological definitions. I would argue that the definition of "life" which patriarchy has produced is grounded in men's existential separation from species continuity rather than women's integrative experience of birth. If "life-as-such" is an absolute value then we must never swat a fly, fumigate a fungus, catch a fish, nor boil a quintessential egg. This is why the concept of Right must be added to the crude affirmation of life but right itself is a political legal concept of a quite murky kind.

Human life, of course, is presumed to be "different" from other forms of life, a difference which men have usually attributed to the possession of rationality—a quality more satisfactory in theory than visible in practice—and the exercise of choice which is dangerous in women who have no rationality. All of this has led to extraordinary fights over when in fact a foetus becomes human.

This obscure and abstract debate can only take place in a world in which men have usurped the right to give meaning to experience, including the experience from which they are biologically excluded, that of giving birth. The transformation from life in general to human life in particular comes, I would argue, in the concrete labour of women. (Marx defined labour as the creation of value, but he did not heed the value produced by women's reproductive labour.) This work is a unification of bodily labour with human consciousness, a unity of knowledge and experience which defines the human as



the species which knows what it is doing in the act of giving birth: it is creating value, the value of human life, a cultural and individual value which is consciously experienced by the labouring reproducer. Like-as-such can have no moral value, for value is a good which rests on a conscious interpretation of the experience of being in the world and of working in the world. The infant, produced by a combination of labour and consciousness, of culture and biology, of women and nature, is the human reality of life as opposed to that abstract "quintessence" of life—undifferentiated, brute, and without consciousness. The foetus in utero is all of these things, and the notion that it is already human from "conception" is one which rests solely upon the limp fallacy of the procreative power of the alienated sperm, the "holy seed" of patriarchal ideology bestows life. Abortion is neither a right nor a crime, but a very difficult existential choice related to our human participation in species continuity, our women's perception of the unity of life and living, complicated by the fact that heterosexual relations are conducted in such a grotesquely adversarial way. It is an odd world in which we casually destroy millions of people, the valuable products of women's reproductive labour, and find these killings ethically defensible, while we become violent in the defence of a collection of cells unvalorized by labour and uninterpreted by conscious human experience. It is an odd world, too, in which men are taught to value mere gratification as essential to mankind's greater density.

All of this deflects our attention from a much more vital issue, that of reproductive technology. Women are understandably ambivalent about this; childbirth is no fun, whatever the subsequent joys. Technology, a male preserve, is a device which may award to men that control of the species reproduction which has been available to them so far only as strategies for controlling and privatizing women. This is not a reason for blind resistance to technology, but it does mean that we must address the implications of reproductive technology seriously and thoughtfully. Perhaps women will eventually gain by the escape from the hazards of labour, but the species may lose from its blindness to the ethical dimensions of childbearing, usually dismissed contemptuously in the phrase "motherhood issue." Motherhood, more broadly understood, may well be the ethical issue of the coming decades, with the implications of caring and conserving life which men have taught women to understand as mere sentiment, but which in fact have a capacity for mediation of dualism, for integration, for reproducing the world—a capacity which is absent from the sterile deductive categories of axiomatic and syllogistic ethics.

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It is good to see women breaking down the barriers of the legal profession, in the light of these momentous historical issues, not only in terms of careers, but in terms of bringing to legal knowledge and to legal practice the insight and determination of women's practice and feminist vision. It is by law, after all, that the patriarchal states built their cultural hegemony, consolidating the power of the father in the legitimation of children, placing the existential bonds of legal marriage on women, legislating male power and tacitly, or even overtly, legitimizing violence in the family. From the judge on the bench to the cop on the beat, from the statesman in public to the patriarch in private, men's laws have ruled women's lives and appropriated women's children as soon as they were old enough not to need a mother's toil and patience, though they never seem to grow old enough not to need her sacrificial love. And it is to the law that the reproductive technocrats turn for the legitimation of their procedures, for the patent of approbation and the license to exercise the ultimate control, that of the reproduction of the species. The women's movement, at this moment in history, needs a voice in law, and it is good to be here and know the voice is speaking, neither *ex cathedra* nor pontifically, but in sweet tune with the aspirations of women in all walks of life. We need that voice. As a movement, we need your knowledge and your political commitment, your sense and your concern, to mount the necessary critique of and resistance to the robotic technological hysteria of the new baby-farmers. We need your help to understand the processes and strategisms in which male control of reproduction is being consolidated and how to challenge that. But most of all, we need you as all women need each other, to fight the good fight which will transform patriarchal legalism to feminist justice, justice for us, justice for our children, and justice for our species.

This article was originally presented as the keynote address at the Sixth National Biennial Conference of the National Association of Women and the Law, "Who's in Control? The Legal Implications of Reproduction and Technology," held in Ottawa in February 1985. The article was subsequently published in the Summer/Fall 1985 issue of Canadian Woman Studies/ les cahiers de la femme *(Volume 6, Number 3).*