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INTRODUCTION

Abortion Politics and History

Fifty years ago, politicians in this country did not speak in public about abortion. Nor did priests or rabbis. Large groups of people did not collect in Washington, D.C., to demonstrate their support for or abhorrence of abortion rights. Fifty years ago almost no one in the United States imagined coupling the shadowy world of abortion with the concept of the civil rights of women. Abortion practitioners—and there were hundreds of them working in our cities and towns then—did not don bulletproof vests when they went to work in the morning. And fifty years ago, hundreds of thousands of women sought and obtained abortions, furtively keeping appointments with criminalized practitioners in venues on the wrong side of the law.

At the end of the twentieth century, the subject of abortion occupies the dedicated space in public discourse for expressions of fear, outrage, and hatred; for struggles over ideology and justice. This is the space that forty to fifty years ago was filled by the subjects of civil rights and communism. Clearly, a great deal has changed in the past half century regarding abortion, and this volume aims to consider aspects of the change.

There are pressing reasons to look at the abortion controversy in the United States over time. But before discussing some of the reasons that seem particularly pressing, I want to make the simple point that when a subject is given its history—when the abortion controversy and abortion practice are examined within a historical framework—it becomes

unsettlingly impossible to think about the subject in a fixed, static way or to claim universalized, decontextualized meanings for abortion and its satellite issues.

The subject of abortion is a model example of this point. What would a contemporary reader make, for instance, of a 1966 letter in my files from a Portland, Oregon, parish priest in good standing who wrote to the Portland City Council imploring this body to quit harassing the city's most active, most successful, and most demonized abortion practitioner? In this letter the priest insisted that the council grant a permanent license for the motel the abortionist owned on the same block occupied by St. Michael's Catholic Church. The priest defined his defense of the abortionist clearly: "I sincerely trust that we are still living in an age when a person's property is respected." This letter directs the attention of today's readers to the very interesting fact that in 1966 a Catholic clergyman not only argued publicly that property rights trumped abortion wrongs but even portrayed the abortion provider as a hard-working, generous grandmother of four whose place of business was a respectable hostelry.

Keeping the priest from St. Michael's in mind, let's return to the important reasons for considering the subject of abortion in its historical context. To begin with, a historical framework makes clear that the meanings of the most fundamental terms associated with abortion—such as *life*, *choice*, *mother*, *fetal viability*—have shifted, contracting or expanding over the past half century. For both scholarly and strategic reasons, it is important to cultivate a heightened awareness of this process.

The fact is, when foundational terms—particularly those associated with politically charged matters—have fluid and mutable meanings over time, their usage is easily manipulated or distorted and politicized. An advocate can emphasize vestigial meaning in a way that subtly but powerfully eclipses contemporary usage. In the abortion arena, opponents of abortion rights often invoke terms such as *life* and *mother's destiny* as if they had fixed, enduring transcultural and transhistorical meanings. At other times, these same people imbue old terms with apparently modern significations. A demonstration that the meaning of many abortion-related terms has changed over time calls into question the claim of universal, unchanging truth advanced by the anti-rights forces.

The term *fetal viability* is a case in point. Fifty years ago, embryologists and neonatologists were in general agreement that viability—the capacity of the fetus to live outside the womb—was reached after ap-

proximately thirty-four weeks of gestation. Scientists and physicians also agreed that *fetal viability* was a technical term relevant mostly to obstetric emergencies. Over the decades, scientific advances have pushed the date of fetal viability back, so that today, in some cases, a fetus of twenty-seven or twenty-eight weeks' gestation can be rendered viable. New science has thus fractured old meanings and common usage. Today, anti-rights legislators all over the country and in Congress have appropriated the term from the medical domain and refashioned it as a legal status and a political rallying cry. For abortion rights opponents, the term now demarcates the beginning of a stage of pregnancy in which abortion is deemed *late*, and therefore notoriously and irredeemably wicked. *Fetal viability* has become an anti-rights strategy for demonizing women and disqualifying doctors.

In contrast, for abortion rights proponents, the term largely retains its original reference to the fetus *qua* fetus. People who support abortion rights are aware that the very small number of abortions performed after fetal viability are bound up with unavoidable tragedy. Many rights advocates have come to believe that, in practice, fetal viability is a socially constructed and not simply a scientifically predictable status; a woman's access to prenatal care, adequate diet, high-tech obstetric and neonatal services, and other resources has a decisive impact on when any given fetus achieves viability. Taking into account older meanings and usages of terms central to public discussion of abortion, and the ways these have changed over time, is not only an interesting intellectual pursuit. It is an aspect of building an effective political strategy.

A second benefit of placing abortion politics in time is that historical perspective pushes us to examine anti-rights and pro-rights activism in a context that includes other contemporaneous forms of activism and other social movements. The historical frame captures and helps us understand how the abortion issue in the United States has drawn in and interacted variably with a broad array of other social concerns. Loretta Ross's essay in this volume delineates the complex and changing relationship between civil rights and reproductive rights activists during much of the twentieth century. Faye Ginsburg's essay on Operation Rescue suggests that the demography, ideology, and activist trajectory of this anti-rights sect (and others like it) must be understood as part of the history of American fundamentalism.

Looking at abortion politics in a historical framework creates one more important opportunity: the historical evidence challenges and can even demolish the myths that have frozen much of the public discussion

of abortion in a dangerous rhetoric outside of time and social context, obscuring and distorting what is at issue. For example, Randall Terry and Patrick Buchanan and other anti-abortion leaders speak of the blasphemous effect on the United States of the millions of abortions performed since legalization in 1973. Terry goes so far as to claim that the destructive flooding of the Mississippi River in the summer of 1993 expressed God's vengeance against abortion-seeking women and abortion-performing physicians. Terry, Buchanan, and others broadcast the untruth that before *Roe v. Wade*, the United States was a virtually abortion-free country and thus, they say, a country with stronger family values, closer to God. The historical evidence makes clear, however, that before legalization, hundreds of thousands of women obtained abortions each year. The historical evidence forces us to recognize that the laws against abortion did not come anywhere near ending or even effectively containing the procedure, though the laws did, of course, make being a woman more dangerous in this country.

A related myth, promulgated by a broad spectrum of people concerned about abortion and public policy, is that before legalization abortionists were dirty and dangerous back-alley butchers. In one recently released pro-rights documentary about the illegal era, women forced into the back alley by the law and determination to control their own fertility are portrayed as taking their lives into their hands because practitioners were all filthy mercenaries, sexual predators, or both. Again, the historical evidence does not support such claims. Rather, trial records and public health studies—two of the best historical sources for tracking a secret, criminal activity such as abortion—show astonishingly high rates of technical proficiency among criminalized abortion practitioners and surprisingly low rates of septic abortion caused by these persons. The widespread practice of self-induced abortion, on the other hand, did leave a horrible trail of morbidity and mortality. The enduring myth of the back-alley butcher has profound contemporary relevance. The anecdotal, unsubstantiated taint attached to old-time practitioners has a way of bleeding across time to infect the public and professional standing of contemporary practitioners, who, with the myth intact, are “justifiably” targeted by violent “pro-lifers,” marginalized by the medical profession, and shunned by their own communities.

Two other commonly invoked myths are equally disingenuous and ahistorical. One claims that the 1973 Supreme Court decision legalizing abortion, *Roe v. Wade*, reflected only the determination of a few old men

sitting on the court. The implications here are that Americans did not then and do not now want legal and easily accessible abortion and that recriminalization can be accomplished as smoothly as legalization, if efforts are directed wisely. The other myth, that abortion is a white middle-class women's issue, trades on historical divisions among women of different races in the United States. Amy Kesselman's essay vividly debunks the first of these historical distortions, and Marlene Fried, Loretta Ross, and Dorothy Roberts overturn the other, from a variety of perspectives. The work of addressing and discrediting the mythologies of abortion and abortion politics is an important aspect of the fight to preserve and extend women's rights to control their own bodies.

In this volume the commitment to examine abortion across time is enriched by multiple and interdisciplinary perspectives. The authors of the eighteen essays represent seven academic disciplines and the fields of journalism, medicine, and law. Many of the authors are activists, and all share a conviction about and a commitment to pro-rights politics.

This volume is unabashedly a pro-rights book. The perspectives collected here yield a complex picture of what has been at stake in abortion politics during the past fifty years. These essays help clarify why so many women consider abortion crucial to their lives and so bound up with full citizenship rights. They also help explain why opposition to abortion rights has persisted and become so violent today. Together, these essays illuminate a fundamental lesson about social change in the United States. The recent history of abortion has confirmed that judicial decisions that overturn restrictive laws and establish new rights (even in the context of widespread support from citizen-activists) do not settle social policy and, in fact, are likely to spark severe and long-lasting resistance. A quarter of a century after *Roe v. Wade*, abortion remains one of the most unresolved and violently contested issues in the United States. Beyond its scholarly value the material in this volume offers a rich base from which abortion rights activists can analyze the nature of abortion politics in the past and present and strategize for the future.

Aesthetics (and my personal obsessions) notwithstanding, there are several reasons why the band of time marked out by this collection begins in approximately 1950. In my judgment, the contemporary era of reproductive politics began soon after World War II. Five years after the end of the war, more women in this country—16.5 million—were employed outside of their homes than ever before, and that number was increasing by approximately one million each year, despite postwar reconversion policies that aimed to eliminate huge numbers of women

from the workplace. At the same time, in a not unrelated development, a number of powerful cultural and political authorities began to mandate and enforce the vulnerability and relatively weak citizenship status of women. Tactics included unprecedented crackdowns on abortion practitioners and new laws and social practices that gave government entities and other social agencies the right to decide when and if a woman was a mother.

The lives of millions of women were adversely affected over several decades by this new postwar stringency. But at the same time, in the face of coercion, women began to resist the authorities who would define the conditions of maternity for them. Just as *Roe v. Wade* stimulated the rise of the anti-rights movement in the 1970s, twenty years earlier, females across the country were stimulated by new restrictive social policies to fight back. Early on, resistance was massive, if carried out on an individual basis: each year throughout the 1950s, hundreds of thousands of teenage and adult women got abortions. Doctors held conferences and published books and scores of professional papers on the abortion dilemma women presented them with. Some doctors quietly tucked a few more abortion-seeking patients into their weekly schedules. The rise in the late 1940s and early 1950s of hospital abortion boards—panels of doctors to which an unwillingly pregnant female could apply for permission to obtain an abortion—represented, in an odd way, a giant, if oblique, step toward reproductive rights. Even though the boards operated in a harshly coercive and authoritarian manner and made women into supplicants, these postwar panels were established in response to women's demands for safe abortion. In addition, the existence of abortion boards was predicated on the belief that women had a voice in the matter of their pregnancies, a right to *request* an abortion and, in some cases, a right to have one. It was not long before secret, individual resistance and the humiliatingly won right to ask a committee of doctors for an abortion evolved into collective public demands for abortion rights.

The millennium provides a dramatic, if artificial, end point for this collection. It is artificial because there is no evidence that important aspects of the abortion issue will be resolved by the end of the twentieth century. Yet the year 2000 provides us with an opportunity, perhaps a mandate, to assess the shape and content of abortion politics over the last half of the twentieth century. This assessment is important for predicting future scenarios and for mapping out strategies. As we move into the twenty-first century, pro-rights proponents realize, as they

largely did not in 1973, that the struggle to establish fully legal and accessible abortion rights for all women is a long-term project.

In some ways, at the end of the twentieth century, abortion politics exists on paradoxical terrain. On the one hand, the status of abortion in the United States is more volatile than ever, dependent on a host of variables including presidential elections, the political complexion of the Supreme Court and the fifty state legislatures, and even on the political culture of thousands of municipal police departments. On the other hand, abortion has achieved a dailiness in the consciousness of Americans. Regular news reports of legislative hearings, protests, violence, legal challenges to restrictions, and other abortion-related events have kept the issue before the public in ways that were simply unimaginable a half century ago and that today push millions of Americans to consider their personal relation to the issue and take a stand. In part, the purpose of this volume is to offer readers historical and multidisciplinary perspectives that will deepen, enrich, and clarify the base of their participation in the national discussion of abortion and abortion rights, and their advocacy of these rights.

Abortion Wars is divided into five parts: (1) Coercion, Resistance, and Liberation before *Roe v. Wade*; (2) Strategic Arenas; (3) Activism; (4) Physicians and the Politics of Provision; and (5) Reinterpreting Abortion Rights over Time. Predictably, the essayists share preoccupations and concerns across these divisions. All are horrified by anti-rights violence. All are searching for effective strategies to safeguard women's rights to reproductive safety and autonomy. In one way or another, all of the contributors are abortion rights *activists* and are devoted to stimulating and channeling the activism of others. I believe that all of the contributors are committed to the position that "abortion rights" refers to one of a broad array of entitlements, services, and resources constituting *reproductive rights* that *all* women must possess in order to be full members of society. These themes are threaded across the sections, woven through essays with distinctive content.

Four additional themes stand out for their importance to more than one author. First, several of the essayists agree with the proposition that "the erosion of *Roe* was inevitable," as Kathryn Kolbert and Andrea Miller of the Center for Reproductive Law and Policy put it, in part because of the "privacy" doctrine the Supreme Court placed at the core of abortion rights in 1973. In various and fascinating ways, Kolbert and Miller, Alison Jaggar, Dorothy Roberts, and Marsha Saxton reassess the basis and the nature of abortion rights in light of post-1973

developments in law, feminist theory, and politics that have exposed dangerous loopholes, which threaten the rights of many groups of pregnant women, including the poor, the young, the drug-addicted (especially women of color), and the disabled.

Second, a number of the essayists illuminate the fact that the abortion struggle in the United States has been so protracted and become so violent because of the ways that abortion activates and engages with the most bedeviling cultural and political issues facing this country. These include the complex and contested relationship among femininity, feminism, sex, and fertility, and the widely perceived need at the end of the twentieth century to redefine the feminist movement so that race and class as well as gender considerations are at its core. Abortion politics also activates questions regarding the citizenship rights of poor women and women of color, especially questions about whether women in these groups have the same rights as other women to decide when and whether to become pregnant, to stay pregnant, to have abortions, to become mothers, and to keep and raise their children.

In addition, abortion politics presses us to reevaluate the role of violence in American history, specifically as a tool for individuals and groups frustrated by their lack of success in shaping the outcomes of social struggles. Essays by Amy Kesselman and Marlene Fried consider the problem of redefining and sustaining nonviolent movements in a receptive era (1970s) and during largely conservative and nonactivist times (1980s and 1990s).

Abortion politics interacts with and stimulates still other enduringly difficult and contested issues, including the questions dealt with by Marie Bass and Marsha Saxton concerning feminist strategies for integrating new technologies, including reproductive technologies, into a largely unprepared and uninformed consumerist society. All of the contributors in the section devoted to physicians and abortion provision face hard questions about the tortured and politicized relationship between law and medicine in the United States.

The third theme that surfaces again and again in this volume is the conviction that pro-rights advocates must draw on the movement's experience since legalization—and before—to set agendas and strategies for the twenty-first century. William Saletan, Marcy Wilder, and Laura Kaplan, along with Dorothy Roberts and others, argue that the way abortion rights proponents now define these rights (in many cases differently from how they were defined earlier) has an impact on legal and

political strategies and outcomes. It is worth noting here that my own use of the term *abortion rights*, instead of the more commonly used term *choice*, reflects a growing recognition among advocates that “choice” is the ultimate marketplace concept. When we construct the abortion arena on the marketplace model, we justify the fact that millions of women in the United States cannot afford to purchase adequate or necessary reproductive health services. When we talk about *rights*—about reproductive rights, including abortion rights of all women—then we are constrained to reevaluate the kinds of efforts, in which venues we must pursue these rights, as Kathryn Kolbert and Andrea Miller put it, in order to secure a “new positive rights articulation of Roe” as well as to protect the abortion rights women currently have and win back the ones already lost.

Finally, a theme or undercurrent that runs through all the essays in *Abortion Wars* is that the rights advocates included here, and the organizations, constituencies, and causes they represent, have not lost their taste for the struggle. Despite the work and the pain involved in facing and facing down the violent opposition, despite the tragedies that has entailed, despite the harsh tasks of responding to hostile legislators while devising innovative strategies, despite the arduous efforts associated with applying the lessons of history to the process of redefining the issues that constitute the heart of the abortion rights struggle today, the voices in this volume are surprisingly energetic. At the end of the twentieth century, abortion rights—reproductive rights—remain a deeply worthy cause because achieving these rights will bolster the claim of all women to lives imbued with justice, safety, and dignity.