

Cain, Ruth (2013) *Fatemeh Ebtehaj, Jonathan Herring, Martin H Johnson and Martin Richards (eds): Birth Rites and Rights*. Review of: *Birth Rites and Rights* by Ebtehaj, Fatemen and Herring, Jonathan and Johnson, Martin H. and Richards, Martin. *Feminist Legal Studies*, 22 (1). pp. 101-104. ISSN 0966-3622.

Downloaded from

<https://kar.kent.ac.uk/43681/> The University of Kent's Academic Repository KAR

The version of record is available from

<https://doi.org/10.1007/s10691-013-9233-1>

This document version

Publisher pdf

DOI for this version

Licence for this version

UNSPECIFIED

Additional information

Versions of research works

Versions of Record

If this version is the version of record, it is the same as the published version available on the publisher's web site. Cite as the published version.

Author Accepted Manuscripts

If this document is identified as the Author Accepted Manuscript it is the version after peer review but before type setting, copy editing or publisher branding. Cite as Surname, Initial. (Year) 'Title of article'. To be published in *Title of Journal*, Volume and issue numbers [peer-reviewed accepted version]. Available at: DOI or URL (Accessed: date).

Enquiries

If you have questions about this document contact ResearchSupport@kent.ac.uk. Please include the URL of the record in KAR. If you believe that your, or a third party's rights have been compromised through this document please see our [Take Down policy](https://www.kent.ac.uk/guides/kar-the-kent-academic-repository#policies) (available from <https://www.kent.ac.uk/guides/kar-the-kent-academic-repository#policies>).

**Fatemen Ebtehaj, Jonathan Herring, Martin H Johnson
and Martin Richards (eds): Birth Rites and Rights**
Oxford, Hart, 2011, ISBN:978-1-84946-188-7

Ruth Cain

© Springer Science+Business Media Dordrecht 2013

This wide-ranging essay collection is the product of a 2010 symposium on the rituals, bureaucracies, and other social, medical and legal constructs surrounding modern birth. As a collection of stand-alone research pieces, it does not claim to be encyclopaedic or to comprehensively cover this huge topic. Rather, it ranges variously through law, medicine, ethnography and history, dealing in detail with apparently disparate subjects from cohort studies of pregnant women (Oakley et al., ch 1) to an outline of the concept of royal birthright in medieval England (Woodman, ch 11), to medical studies of steroids used to ward off the ill effects of premature birth on the fetus (Forhead and Fowden, ch 7). Despite the sometimes specific and technical nature of the articles, read as a whole the collection nonetheless encourages the reader to think deeply about the network of scientific and organisational structures piled upon the apparently 'simple' and 'natural' fact of birth. In fact, a read through it will disabuse any reader of the fantasy of simple, natural human birth: for instance, Jonathan Herring's chapter (5) considers the contradictions and intricacies of defining legal personhood through birth, while Françoise Barbira-Freedman (ch 2) tracks the changing medical orthodoxies which dominate the experience of birth for women. Themes of the control of non-bodily governance and authority over birth and the bodies of pregnant women and mothers are a particular feature of the book: as Martin Richards notes in the introduction, the day on which fewest babies are born is Christmas day (p 2), and we can safely infer that this is not because women choose not to go into labour on a public holiday. Rather, it is an iatrogenic result of interventions which make birth more convenient for medical professionals, although it does not directly benefit mothers and babies, and indeed, unnecessary interventions may harm them, since birth at home and with minimal intervention continues to be the safest option (see e.g. Lokugamage 2011). The reader wonders how many caesareans (which, as noted by Oakley et al. and

R. Cain (✉)
Kent, UK
e-mail: R.C.M.Cain@kent.ac.uk

other contributors, have massively increased in recent decades to a steady rate of around 20 % in the UK) have become 'urgent' at shift-end times.

In this troubling context it is even more disturbing to note that although a rhetoric of choice and consumption have become de rigeur in birthing practice, Oakley and her collaborators report that women feel just as much pressure to make the 'right' choice today as in previous decades when medical authority was wielded more overtly, and an inability to challenge the 'advice' of medical practitioners. In a somewhat different context, that of IVF 'success' data collected by the HFEA, Emily Jackson and Hossam Abdalla (ch 15) note that information on IVF 'successes' per clinic is in fact useless as a measure of how likely a particular woman is to have a live baby as a result of treatment at a particular establishment. A clinic's figures can be massaged to exclude its more treatment-resistant patients, and may be based on overly small groups of comparable women; thus, regardless of the proliferation of data intended to enable measurability of the offered product, there is in fact 'no statistically significant difference between the success rates of different clinics in the UK' (p 281). Sensibly, the authors go on to suggest that instead of simply publishing meaningless statistics, the HFEA encourage readers of the information to understand its limitations: a recommendation that encapsulates some of the incongruities of an era of excessive medical information geared to 'choice', which hinders rather than enables access to the treatment needed.

Thus this book offers varied evidence of the 'subtle authoritarianism' of a healthcare system increasingly organised around the triple poles of profit (or at least cost reduction), risk calculation, and consumer choice, or at least the illusion of choice (Brown and Baker 2012; and see chapter 4 by Mavis Kirkham on the damage wrought to midwife-mother relationships by a technocratic and insurance-dominated healthcare system). The same multi-centred authoritarianism urges individuals to adopt the sanctioned attitude to what are now framed as unavoidable responsibilities to safeguard their own health or face the devastating consequences, in an era of decreasing state provision and governance through 'responsibilization' and risk-reduction. McCandless and Collier (chs 10 and 8) deal with some particularly interesting aspects of such responsibilization when they examine the governmental and social imperatives behind the attempts to make fathers responsible and female civil partners through changes to birth registration and the legal status of parenthood, especially in the 'confusing' contexts of lone parenthood and pregnancies created using assisted reproductive technologies. As McCandless notes, the Welfare Reform Act 2009 effectively attempts to force the registration of a paternal name every time a child's birth is recorded, except in strictly limited circumstances; how extracting a name out of reluctant mothers will be enforced in practice, will improve the social situation of the children involved, or encourage their presumably also reluctant or absent fathers to 'get involved' are points too subtle and complex for the legislation to deal with explicitly!

Choice and autonomy for mothers appear as increasingly hollow constructs as one reads the collection. As outlined with admirable clarity by Rosamund Scott in chapter 6, despite UK law allowing mothers a prima facie choice to refuse treatment which doctors think will benefit or save her baby (and the rather less clear 'choice' to end a pregnancy before 24 weeks under UK abortion law if two doctors agree to

the decision), the responsible birthing mother must basically choose the *right*, medically sanctioned path or face considerable pressure and guilt: thus the 'right' path is often the only one she was actually allowed to choose. Increasingly, and somewhat disturbingly, mothers do seem to choose the sanctioned path of their own apparent accord, even if it does not in fact decrease risk: as Oakley et al. and Bewley and Foo note, elective caesareans are on the rise, despite evidence that high caesarean rates produce worse health outcomes for mothers and babies. Bewley and Foo summarise the paradoxical risks of risk-aversion: 'harm may be caused in pursuit of absolute safety' (p 58).

Another aspect of maternal choice which the book emphasises, perhaps reflecting cultural preoccupations with infertility as a form of punishment for 'post-feminist' women who try to 'have it all', is the 'choice' to delay childbearing. Bewley and Foo (ch 3) and Irene Daly (ch 13) discuss the 'trend' to delay first pregnancies and the rising average age of British mothers in terms which, as already noted by another reviewer of this collection (Machin 2012), make uncomfortable bedtime reading for women who may feel unable to afford a baby early in life or could not establish a career within the 'right' (less risky) window of time. The social pressures on women to become responsible financial individuals, preferably married homeowners with established careers they can easily return to or a partner wealthy enough to allow them not to return to work, are in my opinion insufficiently dealt with in the volume, which rather emphasises the physical risks of choosing to have a child too late and the troubling 'ignorance' which leads women to believe they can delay childbearing (particularly emphasised in Daly's interview extracts with young women discussing their future plans and chances of having a baby late in life), thus 'defying nature and risking heartbreak', as Bewley and her co-writers have (in)famously claimed (Bewley et al. 2005, 588–589).

The collection provides further evidence that the mounting technocracy and bureaucracy of birth has led to previously unforeseeable cultural changes around the definition of legal and social personhood, as when Barbira Freedman reports parents 'bonding' with scanned images of their foetuses, the scan now serving as a 'ritualised bio-social threshold of pregnancy' (p 35). Other relatively recent changes, such as the increasing expectation that fathers will be present at the birth and registered on the birth certificate whether married to the mother or not, reflect sociocultural adaptations of concepts of correct gendered behaviour, although as Collier notes in chapter 8, it remains unclear how fathers are meant to reconcile the twin imperatives of traditional breadwinning and nurturing the closer relationships with children which (it appears) men increasingly want and are expected to form. Chapter 12 by Shelley Day Sclater casts a particularly intriguing historical light on how gendered expectations of 'normal' behaviour may intersect with legal definitions of insanity, and provides the volume's only in-depth exploration of the psychiatric aspects of birth and its sequelae. Day Sclater shows how increasing concern in the c19th about infanticide, a 'widespread social problem', provoked a redefinition of insanity as (in birthing women at least) caused by a particular bodily event which, crucially, allowed doctors and judges to medicalise and *individualise* a troubling consequence of 'widespread poverty, inadequate health care and

oppressive gender relations' (p 223). In the current era of marketising neoliberal healthcare and welfare reform, this history could not be more relevant.

Overall, the volume is a thought-provoking overview of a pivotal 'natural' and social event and provokes the reader to reflect on the layers of social, legal and cultural construction which come to overlay pregnancy and birth. If not all its chapters seem as relevant to the overall themes as others, they are at least scholarly and diverting set-pieces. Many of the chapters, however, encourage complex and fruitful reflection which is vital to an understanding of contemporary governance, subjectivity and politics and the histories and technologies of body and self which have shaped them.

References

- Bewley, Susan, Melanie Davies, and Peter Braude. 2005. Which career first? The most secure age for childbearing remains 20–35. *British Medical Journal* 331: 588–589.
- Brown, B.J., and Sally Baker. 2012. *Responsible citizens: Individuals, health and policy under neoliberalism*. London and New York: Anthem.
- Lokugamage, Amali. 2011. Fear of home birth in doctors and obstetric iatrogenesis. *International Journal of Childbirth* 1(4): 263–272.
- Machin, Louise. 2012. Review of 'birth rites and rights'. *Medical Law Review* 20(4): 657–662.