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Legal but ...  
Framing the Ethics of Abortion Rights

MARLENE GERBER FRIED

The 25th anniversary of Roe v. Wade produced a media barrage of articles, television, movies, talk shows and opinion polls showing that a majority of Americans believe abortion should be legal but restricted. These polls tell us that most people in the United States do not share the view that abortion should be available when needed, for any woman, for any reason. In 1998 this is apparently as radical a position as it was in 1973.

At the same time, millions of women continue to have abortions at close to the rate they have had them for many years. Abortion remains the most common surgical procedure in the country. This means that many of those who say abortion is murder have had or will have them.

The recent polls also show that a majority of people in the U.S. believe that the anti-abortion movement is extremist. At the same time, those polled give high marks to anti-abortion activists for being “principled.” It seems that the anti-abortion movement is perceived as resorting to its violent measure, such as the recent clinic bombing in Alabama, because of an ethical position. Conversely, while pro-choice activists are viewed as more “reasonable” and “moderate,” we are often not viewed as holding an ethical position.

How should we understand this complicated picture of abortion today? And how, after so many years of battle, do we assess what pro-choice activists have accomplished? What inroads have the anti-abortion movement made when, although abortion has not significantly declined, high levels of violence against clinics and their personnel are tolerated? How do we answer these questions will direct the fight for reproductive freedom in the future.

Abortion-rights activists face a two-fold challenge. The first piece of it is long-term and ideological, as well as legal: to find the language, strategies and allies to guarantee every woman a fundamental right to make her own reproductive choice. Second, and simultaneously, we have to interrupt a widespread complacency and engage a sense of urgency about the reproductive rights agenda.

One way of both challenging the ethics of the anti-abortion movement and highlighting the urgent, unmet needs is to resurrect for ourselves and for public discussion the history of abortion.

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1920s and 1930s abortion accounted for 14% of all maternal deaths, with higher rates in urban areas. Race and class were significant factors—the death rate for women of color was four times that for white women.

The safety of abortion was a political matter. The same methods which reduced mortality in childbirth and in surgery in general—the introduction of antiseptics in the late 1800s and sulfa drugs and penicillin in the 1930s—were the means to make abortion safe. While these methods were used for the relatively small number of therapeutic abortions (legal procedures which became increasingly restricted), abortion mostly remained dangerous because it was criminalized.

*Roe* transformed abortion from a life-threatening and terrifying experience to a safe one for those women who had access to it. With the passage of *Roe* the mortality rates dropped dramatically. A coroner who worked at a hospital in Pennsylvania before legalization said it simply, "The deaths stopped overnight in 1973, and I never saw another abortion death in all the eighteen years after that until I retired. That ought to tell people something about keeping abortion legal." *(The Worst of Times*, Patricia G. Miller, Harper, 1993, p. 13) Today a first trimester abortion in the U.S. done in appropriate settings is as safe as a tonsillectomy.

Twenty-one million women have had thirty-five million abortions since *Roe v. Wade*. The pre-*Roe* figures are more difficult to come by, but what we do know tells us that abortion was quite common then as well. In the first half of the 1800s, before criminalization, an estimated 25% of all pregnancies were aborted. In the 1920s and 1930s there were an estimated 1.2 to 2 million abortions a year—or roughly 20% of all pregnancies in the 1920s. Kinsey’s study in the 1950s found that white upper and middle class women aborted 24.3% of their pregnancies; 64% of unmarried white women had abortions and 40% of unmarried black women. *(When Abortion was a Crime*, Leslie J. Reagon, University of California Press, 1997)

Our own history, and contemporary data from countries where abortion continues to be illegal or severely restricted, underscores the pervasiveness of abortion regardless of its legal status. It reminds us that the legal status of abortion does not affect whether women have them. It does determine the toll on the lives and health of women. Although we have not yet done so, successfully publicizing this history could be the basis of clarifying the public health and moral aspects of abortion.

**Planned Giving to Resist**

For more than 30 years, Resist has relied on the support of donors to maintain our grant giving program to grassroots groups. There are many ways to extend that support, including:

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For more information about these and other options, contact Resist, 617/623-5110; resistinc@igc.org.
Activists Say Good-Bye to Dr. Spock

CAROL SCHACHET

"There's no point in raising children if they're going to be burned alive."

That is how Dr. Benjamin Spock connected his work as a pediatrician and writer of books on baby and child care with his radical anti-war activism. Dr. Spock died at home on Sunday, March 15, 1998. He was 94 years old.

More than 50 million people purchased his book, now entitled Dr. Spock's Baby and Child Care Book, which was originally published in 1946. The book encouraged parents to trust themselves and use common sense when raising children—ideas antithetical to a rigid standard. Conservative critics like Vice President Spiro Agnew blamed the "permissiveness" of Dr. Spock's parenting ideas as the source of youth rebellions in the 1960s.

Spock and Radical Resistance

Although he is primarily remembered for his work in pediatrics, Dr. Spock immersed himself as passionately in politics. In 1967, Dr. Spock was one of the speakers at a conference in New York announcing the "call to resist illegitimate authority." This document, denouncing the illegal and immoral war in Vietnam, helped rally radical anti-war activists and led directly to the formation of Resist. Dr. Spock was one of the first signatories on the "call to resist" and remained a life-long supporter of Resist.

The document was used against Dr. Spock and four other activists in the 1968 trial known as "The Spock Trial" or the "Boston Five." Along with William Sloan Coffin, Michael Ferber, Mitchell Goodman, and Marc Raskin, Dr. Spock was charged with conspiracy to "hinder and interfere with the administration of the Universal Military Training and Service Act." Spock and three others were found guilty and sentenced to two years in prison; the conviction was later overturned by a federal appeals court in 1969. In characteristically mild tone, Spock said of his radical involvement: "Organizations know that a well-known white-haired pediatrician in a three-piece suit getting arrested will help get the right attention, so they recruited me."

In addition to opposing the war in Vietnam, Spock also vigorously spoke out against nuclear proliferation. From 1962 to 1967, he was co-chairman of the National Committee for a Sane Nuclear Policy, also known as SANE.

As the candidate of the People's Party, Spock ran for president in 1972. The People's Party was a coalition of radical organizations which called for free medical care, legalization of abortion, publicly funded child care, a guaranteed minimum family income, and the immediate withdrawal of all U.S. military forces abroad. In the 10 states where his name appeared on the ballot, Spock received 79,000 votes.

Spock's activism continued, including numerous arrests for civil disobedience even as he entered his 80s. He once described why he wore suits to such demonstrations: "I think it helps to remind people that this isn't a rowdy act but a carefully considered demonstration that I deem worthy of great respect."

Controversy and Feminism

During his career, Dr. Spock received a range of criticism, including some from feminists who identified and denounced sexist passages in his book. Through its many reprints, Spock tried to take these criticisms into account, learning as he went. For example, in the introduction to the 1976 edition, Spock indicates that revisions were made "to eliminate the sexist biases of the sort that help to create and perpetuate discrimination against girls and women."

Additionally, he stopped using only masculine pronouns to refer to the baby and child and he expanded his writing about parental roles. In the 1976 preface, Spock writes: "I always assumed that the parent taking the greater share of young children (and the home) would be the mother, whether or not she wanted an outside career.... Yet it's this almost universal assumption that leads to women feel-

Dr. Spock was one of the first signatories on the "call to resist illegitimate authority" and remained a life-long supporter.

Personal Background

Dr. Spock was born in 1903 and married Jane Cheney in 1927. Their two sons Michael and John live in Chicago and Los Angeles, respectively. Spock graduated from Yale in 1925, after winning a gold medal at the 1924 Paris Olympics with his collegiate crew team. He received his MD from the Columbia University College of Physicians in 1929 before further training in pediatrics and psychiatry. He and Jane separated in 1976. In 1977 Dr. Spock married Mary Morgan, who was at his bedside when he died.

The next edition of Dr. Spock's Baby and Child Care Book is due out on May 2, which would have been his 95th birthday.
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ing babies and abortions, just at different times in their lives.

The extent of the success of abortion opponents in framing the issue is evident in the polls about the morality of abortion. Fifty percent of respondents say they think abortion is murder. At the same time, almost one-third of those also think that abortion is sometimes the best course of action. So while respondents seem to understand the need for legal abortion, they have trouble claiming it as a moral choice. The implication is that it is acceptable to have an abortion just so long as you understand that you are doing the wrong thing. This position ensures that stigma, silence and guilt will continue to surround abortion.

For example, a 1997 graduate of Yale Medical School reported that the word “abortion” was never mentioned throughout her four years there. As one reporter put it, “In America, abortion is discussed, abortions are not.” (US News and World Report, January 19, 1998, p. 20)

In focus group research, young pro-choice women are more sympathetic to abortion if the woman had responsible sex, but not if she failed to use contraception. What do we make of this? Why is motherhood deemed appropriate “punishment” for failure to practice effective birth control? It seems that the “personal responsibility” campaigns of the right—in the welfare reform, as well as teen pregnancy debates—have been successful in shaping these opinions. This suggests the importance of engaging the realities of contraception—their failures; the conditions of women’s lives, including abuse, that make it difficult to use birth control consistently; a culture that still refuses to talk candidly about sexual activity; a campaign to teach abstinence-only curricula.

The larger issue, however, is that the pro-choice movement must decide to confront the widespread moral ambivalence about abortion rather than hoping to evade it with the notion of choice. Given the fact that women continue to have abortions at sustained rates, we have, too often, deemed such views irrelevant. The “murder but” position is fertile ground for opponents of abortion to exploit, as we have seen in their efforts to ban D & X (so called “partial birth”) abortions.

The anti-abortion movement understands the politics of morality. It has been able to turn ethical qualms into restrictive policies which mostly burden women without power and resources. We have feared that engaging in moral discussion cedes too much ground. But refusing to do so has left morality to the opposition. The right to abortion does rest on ethical principles which require that morality be grounded in the reality of women’s lives, which make women’s autonomy central, and which prioritize access issues because they are questions of social justice.

Anti-Abortion Violence as “Ethics”

Any discussion of the ethics of abortion cannot ignore anti-abortion violence. The recent murder of a security guard and serious injury to a nurse at an abortion clinic in Alabama vividly illustrates an ongoing strategy of terrorizing not only the clinic staff who are the direct targets, but women seeking abortions and the general public. The focus group research cited earlier showed that among young women felt it would be dangerous to become activists for reproductive freedom. Certainly the anti-abortion movement has created a climate in which promoting or providing abortion services means risking one’s life.

Since the early 1980s anti-abortion violence aimed at clinics has been escalating. Although it appeared to have peaked in 1994 with the murders at abortion clinics in Florida and Massachusetts, it continues. The 1997 Clinic Violence Survey Report (conducted by the Feminist Majority Foundation, released January 15, 1998) illustrates the current pattern of anti-abortion violence. Severe violence still plagues 25% of clinics. There were 13 women’s health clinic bombings or arsons in 1997. At the same time the percentage of clinics not experiencing violence, harassment, or intimidation has doubled over the last four years. Anti-abortion violence is becoming ever more concentrated on a small number of clinics which are subjected to multiple types of violence on a daily basis. In addition to other kinds of attacks, activists against abortion routinely threaten clinic workers and sometimes stalk their children, harm their pets, and damage their property.

The chilling effect of such deeds is felt at every clinic in the country as evidenced by the attrition of clinic staff, clinic closings, stepped up levels of security, increased stress. For abortion providers an “ordinary” day includes doctors wearing bullet proof vests, women coming for abortions passing through metal detectors, and sweeps for bombs. Forty-five states have fewer providers than ten years ago; the number of hospitals providing abortions decreased by 600 between 1978 and 1988 and another 18% between 1988 and 1992. The report analyzes this as a “war of attrition” in which one set of clinics and health care workers are targeted, the violence causes workers to quit and perhaps the clinic to close, and then the anti-choice forces move on to another clinic. In 1993, continued on page five
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As with anti-abortion violence, pro-choice advocates should neither see nor respond to these as if they were isolated cases. The anti-abortion movement encourages its members to obstruct wherever they can, and the societal response has been one of tolerance. We must challenge that tolerance.

Why should OB GYNs be permitted to refuse to perform the most common surgical procedure that women undergo? I am not suggesting that they be forced to do abortions. I am suggesting that they not be OB GYNs if they cannot offer women the full range of basic care. Similarly, medical schools should not be permitted to refuse to teach abortion when (if the current trend persists) 43% of women will have had at least one in their lifetime. And hospitals cannot permit anti-abortion nurses to treat abortion patients with hostility. They must be held accountable and either refuse to allow nurses who won’t participate to work in OB GYN, or be sure that an adequate number of nurses are available who will be involved in abortions.

Our ethical concerns in these cases should not rest with making sure that an individual’s rights to act in accordance with one’s own beliefs is protected. We must also be concerned that institutional policies protect women’s rights by ensuring access to abortion and create a climate in which women having abortions are treated with care and respect. The marginalization of abortion within mainstream medicine and the stigmatizing of both those who perform and those who have them will have to be fought.

Expanding Abortion Access

Throughout its existence, Reproductive Rights Network has framed the fight for abortion rights in the larger context of re-

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obstructing Women’s Rights

After the Brookline, Massachusetts murders there were appeals by pro-choice advocates to the anti-abortion movement to tone down its language. But these calls—by those who saw a clear link between rhetoric and action—have not been heeded. “Execute abortionists” signs were in evidence in Washington, DC at the anti-Roe v. Wade demonstration. The “Nuremberg Files” web site lists the names, addresses and social security numbers of 300 doctors, clinic workers, law enforcement personnel, politicians and judges. Inflammatory rhetoric is not confined to the so-called anti-choice “extremists.” The mainstream of that movement says it opposes anti-abortion violence, but it also fuels it by insisting that such violence is caused by the violence of abortion.

Anti-abortion violence is simply not treated with the same degree of intolerance as other forms of violence. As has been observed before, if hundreds of banks rather than abortion clinics were being targeted we would see a very different response. “Innocent officer killed” was the Boston Globe headline after the Alabama bombing. The paper was only echoing the statements of a law enforcement spokesman who wanted to be sure to note that the security guard was not involved in the abortion issue. In Florida a doctor complained to the local sheriff about threats to himself and to his clinic. The sheriff responded that he would do everything he could to support the demonstrators.

The issue here is not whether the sher-
Military Collects DNA Specimens

TOD ENSIGN

In 1992, the U.S. armed forces began a compulsory program that takes blood and saliva samples from 2.4 million enlisted and reservist personnel. These specimens are then processed and stored at the armed forces' DNA Registry in Rockville, Maryland. Every human cell, except for reproductive and mature red blood cells, contain a microscopic DNA molecule holding 23 pairs of chromosomes from which a complete genetic profile can be drawn.

By the end of 1999, the military expects to have more than two million DNA samples. In addition, civilian defense employees and contractors who potentially could deploy to a battle zone must provide DNA specimens. The military justifies the collection by claiming that DNA samples would be used to identify badly damaged corpses where there were no useable fingerprints or dental records.

Forcing Compliance

The United States Military has generally preferred the stick to the carrot with its own service members as well as other countries. Obedience is its fundamental principle, and adherence to commands is required in medical matters as much as in combat. Soldiers are routinely subject to HIV tests, vaccines for such things as anthrax and other biological weapons, DNA sampling, and metabolite tests for drug use. Frequently these medical procedures are performed without disclosing the purpose or use of the test. Urine analysis for drug use is performed on military personnel without discussion; those who have tested positive have been convicted and imprisoned based solely on laboratory test printouts, including first-time offenders.

Three years after the military began collecting DNA specimens the first G.I.s refused to cooperate. Two Marine corporals, Joseph Vlacovsky and John Mayfield, stationed in Hawaii, refused to provide DNA samples. They were court-martialled for disobeying an order. They tried to get a federal court to enjoin the military from taking their DNA, claiming that to do so would violate their rights against unlawful search and seizure. The federal judge ruled otherwise; that the DNA program was a reasonable exercise of military authority. Their appeal of this ruling was unsuccessful.

Presently, when military personnel refuse to provide a DNA sample, either they are court-martialled for refusing to obey a lawful order; or, at a minimum, they are involuntarily released with less-than-honorable discharges.

Two Marine corporals refused to provide DNA samples. They were court-martialled for disobeying an order.

Broad Implications of Sampling

Citizen Soldier and other human rights organizations such as the Council for Responsible Genetics are opposed to this mandatory collection and have supported federal legislation to reduce the military's authority in this area. Civil libertarians have argued that the growing practice of collecting genetic material increases the risk that people will be discriminated against in employment, promotions, and buying insurance coverage.

No federal law currently prohibits discrimination based on a person's genetic makeup. About a dozen states currently have laws against basing employment or insurance decisions on someone's gene pool.

The U.S. military has often served as a testing ground for new methods of social control. For example, all active duty and reserve G.I.s are subjected to regular blood testing to determine their HIV status and possible drug usage. While presently neither form of testing is universally practiced in civilian society, there have been many in-roads, particularly among uniformed services (police, fire, prison guards, etc.) as well as for athletes and incarcerated persons. Tests that are routine today were not even given three years ago.

According to an article in USA Today (July 15, 1997), one in five people who have genetic disease or a family history of genetic disease have been denied health insurance. Genetic tests are now available for some 450 disorders and diseases. Francis Collins, director of the Human Genome Project, a federal research effort to map human DNA, told USA Today: "In the next five to 10 years, there will be tens if not hundreds of genetic predisposition tests available."

In recent years, scientists have learned how to "read" someone's DNA to calculate their risk of contracting a large number of diseases and disabilities. Obviously, insurance companies could save millions of dollars if they could screen out people who are likely to develop disabilities or life-threatening illnesses.

A Few Safeguards

After some public and Congressional criticism, the Assistant Secretary of Defense for Health Affairs issued a memo on April 2, 1996, which limits the military's use of its DNA samples to the following: 1) identification of human remains, 2) other purposes for which the donor or next of kin has consented, or 3) instances where a lawful court order related to a criminal matter has been received and "no reasonable alternative means" for obtaining DNA exists.

Current regulations allow the armed forces to keep each DNA sample on file for 50 years. Servicemembers will have left the military before their samples are destroyed. As long as the DNA specimen bank remains with the Armed Forces Institute of Pathology these restrictions will probably be respected. But should it be transferred to a different command the specimens could become source material for various types of genetic research that could threaten the rights of individual soldiers.

Every G.I. and reservist has the right to request that his or her DNA sample be destroyed once they complete their military obligations. However, to accomplish this continued on page seven
Military Collects DNA

Consent Waiver for Military

After World War II, the Nuremberg Charter mandated that no medical experiments could be performed without the informed consent of the patient. Allied nations wanted to prevent any future abuses like the horrific experiments performed by Nazi scientists. That treaty, of which the U.S. was a leading proponent, does not allow for any exceptions to the requirement of informed consent, even for military personnel.

Nonetheless, in 1990, citing fears about Iraqi chemical and biological weapons, the Pentagon strong-armed the FDA into granting it an “informed consent” waiver. In exchange, the military made promises (which were not honored) to advise G.I.s about possible health risks and to keep careful records of immunization and adverse reactions to vaccines. The Public Citizen, an advocacy group headed by Ralph Nader, filed suit to enjoin this waiver just before the Gulf War began, but the federal courts dismissed their case, citing “national security” and “military necessity.”

In addition to uninformed DNA sampling, two experimental drugs or vaccines, pyridostigmine bromide and botulinum toxin, were dispensed to thousands of soldiers during the Gulf War, even though their toxicity was unknown. Despite complaints from both the FDA and the Presidential Advisory Committee on Gulf War Veterans’ Illnesses about its deficient record keeping, the Pentagon continues to enjoy an exemption from internationally agreed-upon rules for experimental drugs.

Tod Ensign, a lawyer, directs Citizen Soldier, a G.I. and veterans’ rights organization which received a grant from Resist in 1996. For more information, contact Citizen Soldier, 175 5th Avenue, Room 2135, New York, NY 10010.

GRANTS

Roofless Women

c/o the Women’s Institute
14 Beacon Street, #608
Boston, MA 02108

Roofless Women is the offspring of a participatory research group led by women who had experienced homelessness. This group developed and implemented a survey of homeless women across the Commonwealth of Massachusetts and produced a report called “Lifting the Voices of Homeless Women.” The researchers have now organized Roofless Women, a homeless-led advocacy group aimed at empowering women who have experienced homelessness. They will organize workshops in shelters and other facilities that homeless women frequent and use pamphlets they have developed to educate women on their civil rights, legislative acts, and regulatory decisions.

A Resist grant of $2,000 will help organize these workshops by providing a stipend to the women who lead the workshops as well as funds for childcare.
GRANTS

Resist awards grants eight times a year to groups throughout the United States engaged in activism for social and economic justice. In each issue of the Newsletter we list a few recent grant recipients. In this issue, we include grantees from our February meeting. For more information, contact the groups at the addresses below.

Disabled Rights Action Center
2757 South 300 West, Suite B
Salt Lake City, UT 84115

The Disabled Rights Action Committee (DRAC) is a statewide organization committed to expanding and assuring the rights of people with disabilities. In January 1992, approximately 35 people with disabilities went to the Mayor’s office in Salt Lake City and were successful in starting a program to make Salt Lake City more accessible. DRAC worked to establish “Access Salt Lake,” a program to increase funding for curb cuts in residential areas. They have also been successful in making more city buses accessible and in preventing Medicaid cuts. Since its beginnings in 1991, DRAC has worked in the area of housing for people with disabilities and has recently organized a coalition of low-income groups to rectify some of the injustices created in the housing market.

A $2,000 Resist grant will help fund transportation costs for people with disabilities to actions and for literature used to organize around issues of housing access and health care.

The Land Loss Fund
P.O. Box 69
Tillery, NC 27887

The Land Loss Fund (LLF) was founded in 1981 to address the issue of widespread foreclosures on Black-owned farms by the US Department of Agriculture. In 1984 and 1985, the USDA lent $1.3 billion to farmers nationwide to buy land. Of the almost 16,000 farmers who received those funds, only 209 were black. LLF responds to this environmental racism by providing educational, organizing, networking, research, and other technical assistance to small economically disadvantaged land owners in rural eastern North Carolina in an effort to keep the land in the hands of the black community. In 1997, LLF held its first national Black Land Loss Summit and their second summit will be held in 1998 to focus on organizing farmers, community activists, and community people from all across America to create a national agenda to address the issue of African American land ownership, the demise of the Black farmer, and bring awareness to what is happening in the food chain.

A grant of $2,000 from Resist will fund the second Black Land Loss Summit and the development of a newsletter exploring land loss issues among Black farmers.

Political Asylum Project of Austin
1715 East 6th Street, #206
Austin, TX 78702

The Political Asylum Project of Austin (PAPA) was initially founded in 1987 to address the lack of free and low-cost legal representation for indigent refugees seeking political asylum in the United States. PAPA also provides community education about the rights and abuses of immigrants and refugees in the U.S. The group works to involve a large number of people from the local community in advocating for refugees, thus creating a core group of people who are constantly involved in public education about human rights and refugee issues. Since changes in the immigration and welfare laws in 1996, the needs of the immigrant and refugee communities in Central Texas have dramatically increased.

A Resist grant of $2,000 will upgrade computer hardware and software to enable better communication and access to information on policy changes and human rights issues.

Deir Yassin Remembrance Committee-Los Angeles
9355 Chapman Avenue, #205
Garden Grove, CA 92841

The Deir Yassin Remembrance Committee in Los Angeles is a loosely drawn coalition of progressive activists who have worked together in the past on various events related to the Middle East. This

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