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# Abortion:

## *When Choice and Autonomy Conflict*

Jennifer Denbow<sup>†</sup>

### I. INTRODUCTION

Many arguments for affording a woman the right to choose to have an abortion hinge upon the idea that we best value her autonomy by maximizing her options. That is, by allowing a woman to choose between having an abortion and bringing her pregnancy to term, we respect her personal autonomy. The right to choose to have an abortion is viewed as essential to ensuring that a woman has both the right to choose what happens to her own body, as well as the right to determine when and if she wants to bear children. In fact, the Supreme Court has adopted the language of this argument by acknowledging the “basic principle that a woman has a fundamental right to make the highly personal choice whether or not to terminate her pregnancy.”<sup>1</sup>

This pro-choice argument, though, is premised on the frequently unexamined notion that more choices are always preferable to fewer. This paper explores this premise and argues that the mere existence of an unexercised option can sometimes be injurious to principles of self-determination. Specifically, I argue that in some instances—namely for an indigent, pregnant woman who wants to bring her pregnancy to term—the mere existence of the option to have an abortion can undermine a woman’s autonomy. This analysis is not purely theoretical—it has real and critical implications for pro-choice advocates who seek to protect reproductive rights.

I begin in Part II by discussing a theoretical framework of choice that outlines the ways in which increased options can be negative for an actor. In

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1. City of Akron v. Akron Ctr. for Reprod. Health Inc., 462 U.S. 416, 420 n.1 (1983).

Part III, I apply this framework to the abortion context and specifically to the extreme case of a poor, abused, pregnant woman who wants to complete her pregnancy. For this woman, the mere option to abort brings with it detrimental consequences. In particular, the option to terminate her pregnancy can act to undermine this woman's autonomy—ironically, the very thing pro-choice advocates ostensibly aim to protect. In Part IV, I offer some suggestions for altering the existing legal, social, and political landscape to better respect the capacity of all women for reproductive self-determination. I also briefly discuss the implications of my analysis for the future of the broader abortion debate.

## II. THE THEORETICAL FRAMEWORK OF CHOICE

The defining feature of autonomy is self-determination or self-governance: an autonomous agent is sovereign over herself.<sup>2</sup> David Velleman relies on Kantian ethics<sup>3</sup> to demonstrate that there are two fundamentally different ways in which we can value a person's autonomy: we can value a person's *capacity* for self-determination, or we can value a person's *opportunities* for self-determination.<sup>4</sup> Capacity for autonomy refers to the "capacity to critically assess one's basic desires and values, and to act on those that one endorses on reflection."<sup>5</sup> According to Velleman, we value a person's capacity for self-determination by granting it respect.<sup>6</sup> We value a person's opportunities for self-determination in a different way, by acting to maximize her options and "by regarding them as *goods* – as objects of desire and pursuit."<sup>7</sup>

Velleman draws on the theoretical framework of choice developed by Thomas Schelling and Gerald Dworkin to argue that increasing choices may result in disrespect of a person's capacity for self-determination. Velleman first discusses the work of Schelling, who has argued that, in the realm of

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2. Andrews Reath, *Autonomy, ethical*, in ROUTLEDGE ENCYCLOPEDIA OF PHILOSOPHY (Edward Craig ed., 1998), at <http://www.rep.routledge.com/article/L007>.
  3. Rationality is the basis of Kantian ethics and of Kant's concept of autonomy. Kant maintained that moral principles can be derived from the concept of rationality and that rationality is a means to autonomy. Further, he thought that only self-given laws, which originate in the exercise of reason, can bind rational agents. Human dignity for Kant is thus premised on the ability to legislate moral principles through one's will. Kant's principles lead to obligations to affirmatively support and not undermine the exercise of rational agency. See *id.* (providing an accessible introduction to the philosophical concept of autonomy). See also Paul Guyer, *Kant, Immanuel*, in ROUTLEDGE ENCYCLOPEDIA OF PHILOSOPHY (Edward Craig ed., 2004), at <http://www.rep.routledge.com/article/DB047SECT9> (providing an introduction to Kantian philosophy more generally).
  4. David Velleman, *Against the Right to Die* 3, at [http://www-personal.umich.edu/~velleman/Work/Against\\_the\\_Right.pdf](http://www-personal.umich.edu/~velleman/Work/Against_the_Right.pdf) (unpublished manuscript, revising David Velleman, *Against the Right to Die*, J. MED. & PHIL. (1992)) (emphasis in original).
  5. Reath, *supra* note 2.
  6. Velleman, *supra* note 4, at 3 (relying on Kant's categorical imperative that we not act for reasons unless we could propose them as valid reasons for acting for all rational beings. Our respect for the patient's autonomy here is evidenced "by regarding the necessity of sharing our reasons with him, among others, as a constraint on what decisions we permit ourselves to reach.").
  7. *Id.* (emphasis in original).

negotiations, the mere existence of a choice can sometimes be detrimental.<sup>8</sup> Schelling shows that some particularly useful negotiation tactics are predicated on a “voluntary but irreversible sacrifice of freedom of choice,” which in turn “rest[s] on the paradox that the power to constrain an adversary may depend on the power to bind oneself; that, in bargaining, weakness is often strength, [and] freedom may be freedom to capitulate.”<sup>9</sup>

For example, a person who is bound in her negotiations by the desire or needs of other people is placed in a powerful bargaining position against one who has at her disposal a wide range of choices or possible outcomes that would be acceptable.<sup>10</sup> If a foreign leader can show that she is constrained by the popular opinion of the people of her country to accept only that option which is most favorable to them, she is put in a relative position of strength at the negotiating table against a head of state whose constituents would accept any of a range of offers.<sup>11</sup> Even in the case where the leader is unconstrained in her options but negotiates well, her position will be less favorable than if she had been limited in her options.<sup>12</sup> Having the option places her in a weaker tactical position; that is, she can make concessions that she would not otherwise have had the ability to make.<sup>13</sup>

Velleman then appeals to the work of Gerald Dworkin which further challenges the common assumption “that for the rational individual more choices are always preferable to fewer” by showing the variety of ways in which a choice can be unfavorable.<sup>14</sup> One of these is what he labels “responsibility for choice.”<sup>15</sup> He maintains that when given a choice, one must then take responsibility for the consequences of whichever option is chosen.<sup>16</sup> If there is no option available, the result is seen as a consequence of fate, which is out of the hands of the person involved.<sup>17</sup> When an actor must decide one way or another, she then feels pressure to choose responsibly. She must take responsibility for her action because the option was freely taken and not imposed upon her.<sup>18</sup>

Dworkin gives the example of a woman whose physician tells her she is bearing a child with Down syndrome.<sup>19</sup> Before the existence of amniocentesis and liberalized abortion laws, the birth of the child would have been viewed as

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8. See generally THOMAS SCHELLING, *THE STRATEGY OF CONFLICT* (1960).

9. *Id.* at 22.

10. See *id.* at 22-28.

11. See *id.*

12. See Velleman, *supra* note 4, at 7.

13. See SCHELLING, *supra* note 8, at 22-28.

14. Gerald Dworkin, *Is More Choice Better than Less?*, 7 *MIDWEST STUD. IN PHIL.* 47, 48 (1982).

15. *Id.* at 50.

16. *Id.*

17. *Id.*

18. *Id.*

19. *Id.* at 51.

an inevitable occurrence.<sup>20</sup> With both the foreknowledge of the fetus's syndrome and the option to abort, the birth of the child can no longer be viewed in this way. Consequently, the woman must now assume responsibility for her choice. Choosing to have a child with Down syndrome is different from having the child without making a choice to do so.<sup>21</sup>

Dworkin notes that choices can also be undesirable because the existence of a choice can open the actor up to pressure.<sup>22</sup> Consider sex-selective abortion where a female fetus is aborted because a woman (or a couple) feels pressure to bring into existence only a male child.<sup>23</sup> The fear of facing societal sanctions if she bears a female child, combined with the existence of an effective option to abort, places pressure on the woman to terminate the pregnancy—pressure that would not have existed without the availability of an effective option.<sup>24</sup>

Additionally, as Velleman notes, even the mere offer of a choice can be negative because of what the offer may express to the actor.<sup>25</sup> If I offer to go out of my way to give my grandmother a ride to the grocery store, this offer may imply that I do not think that it is safe for her to drive herself.<sup>26</sup> Whether or not she is capable, my offering may offend her or erode her confidence. It may make her believe that it is in fact unsafe for her to drive, and as a result she may accept the ride.<sup>27</sup> In this way, what the offer expresses can be another means of applying pressure on the actor.

Velleman applies the preceding intellectual framework of choice to the issue of euthanasia to argue that the mere existence of the choice to die can be detrimental to the dying person, by undermining her capacity for rational self-determination.<sup>28</sup> This may seem counter-intuitive at first glance, since self-determination is often thought best served by allowing the patient a choice in whether she will live or die.<sup>29</sup> However, Velleman shows that establishing a legal right to die eliminates a patient's ability to stay alive by default.<sup>30</sup> The option to die entails that the patient will be expected to take heightened responsibility for her continued existence. If people with whom the patient interacts view her as responsible for her continued existence, they may ask her to justify this choice to live.<sup>31</sup> Additionally, the patient's family, caregivers, and even society may both explicitly and tacitly pressure her to end her life, even

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20. *Id.*

21. *See* Velleman, *supra* note 4, at 8.

22. Dworkin, *supra* note 14, at 51.

23. *See id.*

24. *Id.*

25. Velleman, *supra* note 4, at 8.

26. *See id.*

27. *See id.*

28. *See id.* at 1-21.

29. *See id.*

30. *Id.* at 11.

31. *Id.* at 12.

when she genuinely wants to continue to live.<sup>32</sup>

Because of the patient's dependent state, combined with doubt in her rational capabilities and prevailing beliefs about the value of lives like hers, any effort to justify her choice to live may be futile. To the extent that the patient's friends and family reason that dying is the best option for her, they may question her ability to rationally assess her situation.<sup>33</sup> The mere existence of a choice, whether or not it is exercised, serves to undercut the respect normally afforded a person's desire simply to live. Her capacity to rationally govern herself—that is, her capacity for autonomy—is compromised.<sup>34</sup>

It is important to note that none of the foregoing discussion is meant to be taken by itself as a justification for restricting options. Rather, it is meant to elucidate the often overlooked problem that maximizing options is not always preferable to restricting them and that doing so may even undermine autonomy. When deciding to what extent options should be maximized, we must always consider those who would be harmed by an increase in options, as well as those whose autonomy might be enhanced by the availability of a choice. We must think about ways in which we can preserve the choice, while mitigating the negative effects its existence can produce.

### III. APPLICATION TO ABORTION

The theoretical framework of choice described by Velleman has implications for the abortion debate, particularly for the pro-choice argument that a woman's autonomy is enhanced by affording her the right to choose whether or not to have an abortion. It is undeniable that the opportunity to have an abortion will enhance the autonomy of those women with unplanned pregnancies who are open to the idea of abortion and face no pressure to abort. However, for women who would have preferred the previous status quo of birth and who face pressure to abort, the availability of a choice will decrease and afford less respect to their effective autonomies.

An extreme example that demonstrates this point is the case of a pregnant indigent woman who is in an abusive relationship with a man on whom she is financially dependent. Her partner does not want a child, but she wants to bring the pregnancy to term and raise the child. This case can be analyzed in the context of the theoretical framework of choice outlined by Velleman to show precisely how a choice can be harmful. This particular woman's option to end her pregnancy exposes her to pressure from both her partner and society, which can consequently serve to undermine her autonomy.

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32. *Id.* at 13-14.

33. *Id.* at 14.

34. *See id.* at 3-4.

### A. Pressure From Her Partner

First, this example is analogous to Schelling's negotiations model, where "the power to constrain an adversary may depend on the power to bind oneself."<sup>35</sup> Her situation, while clearly not a traditional bargaining situation like the one Schelling describes, contains important similarities to a negotiation. The woman in this case, who has the effective option to terminate her pregnancy, is bargaining from the weaker position against her partner who wields financial power over her and who threatens violence if she does not do as he wishes. If she were constrained by the lack of an option to abort, she would be bargaining from the position of power due to her limited options. A woman's freedom to choose can open her up to pressures that would not exist if bringing her pregnancy to term were viewed as an inevitable occurrence.

Additionally, when a woman has the option to abort, she faces heightened responsibility, of the type Dworkin examines, for the consequences of not exercising that option. As Dworkin writes, "[W]ith the fact of responsibility comes the pressure (social and legal) to make 'responsible' choices."<sup>36</sup> In fact, this heightened sense of responsibility may be the very thing that leads women to choose abortion in the first place. A woman may abort because she is unable to bear the idea of bringing a child into the world for whom she cannot care or who may be subjected to a violent father.<sup>37</sup> The woman in our example, though, wants to bring her pregnancy to term despite these factors.

If this woman does decide to bring her pregnancy to term, she will have a larger burden to bear because she *chose* to have the baby: her baby may be subjected to violence and may be ill-cared for because of her choice to give birth. Exacerbating this burden is the fact that the woman who is indigent and part of an abusive relationship is likely to have a more difficult time than most in taking on the heightened responsibility that all women now face for the children they choose to bear. This woman will likely face significant challenges in supporting the child and shielding him from abuse.

While the potential mother's responsibility is intensified by the availability of the choice, her heightened sense of responsibility may be coupled with the father's *reduced* sense of responsibility. A father may feel he has less responsibility to care for both the woman and the child when the woman has freely chosen not to have an abortion.<sup>38</sup> Making birth a woman's choice makes supporting the child the choice of the man.<sup>39</sup> A man could use this type of reasoning to pressure a pregnant woman by telling her that if she gives birth he will neither financially nor emotionally support her or the child. He may

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35. SCHELLING, *supra* note 8, at 22.

36. Dworkin, *supra* note 14, at 50.

37. Catharine A. MacKinnon, *Reflections on Sex Equality Under Law*, 100 YALE L.J. 1281, 1318 (1991).

38. George A. Akerlof et al., *An Analysis of Out-of-Wedlock Childbearing in the United States*, 111 Q.J. ECON. 277, 311 (1996).

39. *Id.* at 281.

rationalize that because he would have her choose differently, the woman should bear the responsibility for the consequences of her choice. The existence of a choice thus strengthens the bargaining position of a man who wants his partner to abort and places additional pressure upon the woman to resolve her pregnancy in the way he wishes.

### B. Pressure From Society

The indigent woman may not only face pressure from her partner: society can also act as an instrument of coercion. Society tends to hold women who neglect their children to a higher level of contempt than neglectful fathers.<sup>40</sup> The stigma associated with bearing a child that one cannot financially support will likely encourage a poor, abused, pregnant woman to exercise the abortion option, particularly when this option is both legally sanctioned and endorsed by a significant portion of society. Societal pressure is even more acute when an indigent woman has little recourse to seek help from the government in the form of financial or other assistance.

Furthermore, by providing only minimal assistance that may not even keep a mother and child at subsistence level, the government communicates to the woman that she and her child are a burden on society.<sup>41</sup> Ineffective public assistance programs and child support laws, combined with the availability of the option to abort, may communicate something even more troubling—that a child born to a poor woman is not to be valued in the same way as a child born to a woman of higher social standing who is not subjected to the foregoing pressures. These negative messages serve as an additional source of pressure on the indigent pregnant woman to terminate her pregnancy. As in Dworkin's analysis, the existence of a choice in this example is deleterious because of the pressure it exerts.<sup>42</sup>

The availability of the choice to end a pregnancy can also be problematic due to what the choice may signify, as in Velleman's analysis.<sup>43</sup> The lack of societal support given to a poor woman when she chooses to bring her pregnancy to term sends a strong message that her decision to bear a child should not be trusted or respected. This message may not only offend poor women but also may erode their confidence in their rational capabilities to assess their situation and thereby choose according to their own desires and values. Additionally, the message may indeed make them believe that they are not worthy mothers and should exercise the abortion option.

Indeed, troubling rationales have been put forth by those who advocate "family caps" on welfare to deny women increased benefits when they bear

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40. Reva Siegel, *Reasoning from the Body: A Historical Perspective on Abortion Regulation and Questions of Equal Protection*, 44 STAN. L. REV. 261, 343 (1992).

41. MARY ANN GLENDON, *ABORTION AND DIVORCE IN WESTERN LAW* 23 (1987).

42. See Dworkin, *supra* note 14, at 51.

43. See Velleman, *supra* note 4, at 8.

additional children.<sup>44</sup> Proponents of these caps often invoke reasoning similar to that used by Charles Murray, an advocate for a complete end to Aid to Families with Dependent Children:

Let government policy start from the premise that to bring a baby into the world when one is not emotionally or financially equipped to be a parent is not just ill-advised, not just inimical to the long-term interests of the mother. It is profoundly irresponsible. It is wrong.<sup>45</sup>

Yet in his next breath he claimed that “government cannot and must not intervene pro-actively in the decision to have a baby.”<sup>46</sup> What Murray and many others fail to realize is that the government does just that when it denies welfare benefits to poor mothers. The government is, in effect, signaling to the pregnant, indigent woman that she should abort. Because the option to abort exists, the signal itself exerts considerable pressure on the woman to make the choice that society and the government would have her make.

Proponents of the family cap, which by December 2003 had been incorporated into the welfare statutes of twenty-four states,<sup>47</sup> frequently couch their arguments in the language of personal responsibility and reduced tax burdens. They appeal to voters by claiming that women are having children just to collect welfare.<sup>48</sup> These notions are echoed in the statement of a citizen at a Louisiana committee hearing regarding a family-cap proposal: “How long can we spend taxpayers’ money on irresponsible people? We’re sick and tired of working for other people. If you’re not going to work, you can at least refrain from bringing other people into the world.”<sup>49</sup> The message to poor women is clear: do not get pregnant and, if you do, do not give birth.

The impetus behind former Louisiana state representative David Duke’s proposal of the family cap is especially disturbing if viewed as an extension of his earlier plan as President of the National Association for the Advancement of White People to give cash payments to welfare recipients for undergoing sterilization.<sup>50</sup> Both plans send the message that the lower classes of society should not procreate. And, at least in New Jersey, the message of the family cap was received: women on welfare had fewer babies—and more abortions.<sup>51</sup>

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44. See WILLIAM SALETAN, *BEARING RIGHT: HOW CONSERVATIVES WON THE ABORTION WAR* 206-17 (2003).

45. *Id.* at 210.

46. *Id.* at 211.

47. Jodie Levin-Epstein, *Lifting the Lid Off the Family Cap: States Revisit Problematic Policy for Welfare Mothers*, at 1, 1-5 (Childbearing & Reprod. Health Series No. 1, 2003), available at [http://www.clasp.org/publications/family\\_cap\\_brf.pdf](http://www.clasp.org/publications/family_cap_brf.pdf).

48. See SALETAN, *supra* note 44, at 206-17.

49. *Id.* at 207.

50. *Id.* at 206.

51. Judith Havemann, *Fewer Births for New Jersey Welfare Mothers: Study Says Benefits Cap Spurred Family Planning, Abortions*, WASH. POST, Nov. 3, 1998, at A7. However, the lower birth rates and higher abortion rates among welfare recipients may have been consistent with rates in the general population. See Patricia Donovan, *Does the Family Cap Influence*

Just as the welfare system pressures women to abort, so does the healthcare system. Poor women encounter substantially greater difficulties than their more affluent counterparts in giving birth in the first place.<sup>52</sup> In the United States, where thirty-seven million people lack health insurance, poverty and inadequate access to prenatal care double a woman's risk of giving birth to a severely underweight child, which in turn doubles the risk of infant mortality.<sup>53</sup> These factors undoubtedly contribute to the already high levels of strain a pregnant, poverty-stricken woman experiences in choosing between abortion and birth. In 2001, President Bush proposed to extend the ambit of the State Children's Health Insurance Program to include unborn children, which would have partially alleviated the healthcare difficulties poor pregnant women encounter. The measure failed, in part because pro-choice advocates opposed it on the grounds that it "bypassed the pregnant woman."<sup>54</sup>

### C. Summary

The abused, impoverished, and pregnant woman faces a multitude of troubles when she wants to bring her pregnancy to term. She bargains from a weak tactical position against her partner; she faces heightened responsibility in giving birth while her partner's sense of responsibility is diminished; she is subject to societal and governmental scorn if she gives birth; her prospects for financial support from society in the form of welfare benefits are minimal; and she and the fetus confront a myriad of health risks. Any of these factors alone would exert pressure on a woman to abort. Taken together, these factors exert tremendous pressure and can certainly overwhelm a woman's own wishes to give birth.

The aforementioned factors and consequent pressure combine with the option to terminate a pregnancy to, ironically, undermine the autonomy of the poor, abused, pregnant woman. Instead of the availability of the abortion choice working, in Velleman's terms, to respect a woman's *capacity* for self-determination,<sup>55</sup> the reality of the situation may serve to undermine this capacity for some women. Giving a woman options may sometimes make it more difficult for her to take the one she would otherwise rationally choose according to her desires and values. Preventing someone who wishes to give birth from having a child is an offense to her fundamental capacity for self-determination. By valuing her options as goods in themselves, we fail to value and respect her capacity for autonomous decision-making.<sup>56</sup> The choice to abort is sometimes antithetical to the very autonomy that it is meant to promote.

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*Birthrates? Two New Studies Say 'No,'* 1 GUTTMACHER REP. ON PUB. POL'Y 10 (1998).

52. Daniel R. Longo et al., *An Investigation of Social and Class Differences in Very-Low-Birth-Weight Outcomes: A Continuing Public Health Concern*, 25 J. HEALTH CARE FIN. 75 (1999).

53. *Id.* at 75-76.

54. SALETAN, *supra* note 44, at 269.

55. *See* Velleman, *supra* note 4, at 3.

56. *See supra* text accompanying note 4.

Furthermore, even if this woman chooses to bring her pregnancy to term, she may feel pressure to justify her continued pregnancy and the existence of the resulting baby both to the father and society.<sup>57</sup> The burden of this justification could be high because, as Velleman writes in the context of euthanasia, “unfortunately, our culture is extremely hostile to any attempt at justifying an existence of . . . dependence.”<sup>58</sup> Because the perspectives of the father and society lead both to pressure the woman to abort, any attempt to justify her desire to give birth will likely be rejected.

Reva Siegel, concerned about state restrictions on abortion that lack any provisions to offset what she calls “enforced motherhood,”<sup>59</sup> asks, “[H]as the state asserted its interest in promoting the welfare of the unborn in a fashion consistent with promoting the welfare of women?”<sup>60</sup> My concern about the issue of restricted motherhood through what could be termed “coerced abortion,” leads me to pose a related question: has society asserted its interest in promoting the autonomy of the woman in a fashion consistent with respecting her autonomy? Regrettably, the answer is no.

#### IV. FURTHER DISCUSSION

We should not overlook the fact that preservation of the right to choose to have an abortion frequently does serve to increase a woman’s autonomy. This is surely true for some women across the socio-economic spectrum. The questions we need to ask are: what class of women is negatively affected by the availability of the choice, and to what extent? We must be sensitive to the woman whose autonomy is not respected under the current social and legal framework. We should also guard against the tendency of feminists to “ignore the political setting of their moral arguments at their peril.”<sup>61</sup> If the pro-choice movement is truly committed to maximizing the autonomy of all women, it will be receptive to the message that protecting a woman’s reproductive autonomy is not the same as simply protecting her right to an abortion.

The abused, indigent woman I have analyzed in this paper is not merely an abstraction. She represents a distinct group of women, and their plight is quite real. In a 1987 study, 68% of women obtaining abortions reported that they were doing so because they could not afford a baby.<sup>62</sup> In the same study, 23% of abortion recipients cited the fact that their partner did not want them to have a child as a reason for terminating the pregnancy.<sup>63</sup> The percentage of pregnancies

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57. See Velleman, *supra* note 4, at 12.

58. *Id.*

59. Siegel, *supra* note 40, at 377.

60. *Id.* at 379.

61. JOAN C. TRONTO, MORAL BOUNDARIES: A POLITICAL ARGUMENT FOR AN ETHIC OF CARE 3 (1993).

62. Aida Torres & Jacqueline Darroch Forrest, *Why Do Women Have Abortions?*, 20 FAM. PLAN. PERSP. 169, 170 (1988).

63. *Id.*

ending in abortion is higher for the poorest class of women than it is for women of any other social class,<sup>64</sup> which correlates to poor women's higher rates of unintended pregnancies.<sup>65</sup> It is also crucial to note that while 43% of African American women's pregnancies end in abortion, as well as 35% of Asian/Pacific Islander women's pregnancies, and 25% of Hispanic women's pregnancies, only 18% of white women's pregnancies are terminated.<sup>66</sup> The class-based and racial overtones of this issue must not be overlooked.

My primary concern is that both public policy regarding access to abortion and pro-choice advocates have focused on protecting the autonomy of privileged women without due consideration to the indigent woman and her particular dilemma. If one of the aims of liberalized abortion laws is truly to protect autonomy, we must not neglect women for whom the aforementioned pressures are real and influential in their decision-making.

I am further concerned that the abortion debate has been a forum within which the privileged have imposed their morality on the underprivileged. Historically, the concept of a "women's morality" has

excluded women of color, immigrant women, poor women, lesbians, and women who were *not 'fit' mothers*. The strategy of women's morality has required for all of its limited success, that some women's realities (to say nothing of their sense of morality!) be sacrificed to achieve other women's inclusion.<sup>67</sup>

One reason that indigent women may want to complete their pregnancies, even in the midst of numerous pressures to abort, is their own general sense of morality and their moral opposition to abortion in particular. In a 1981 study, 69% of women with family incomes of less than \$10,000 expressed a belief that abortion is morally wrong, compared with 45% of women with family incomes over \$30,000.<sup>68</sup> Public policy that focuses solely on increasing access to abortion could very well be an instance of the imposition of the privileged woman's morality on the poor woman.

The existence of the pressures discussed above may serve to undermine the impoverished woman's ability to act in accordance with her own moral views. By not respecting her autonomous decision, we thereby also disrespect her sense of morality. Furthermore, many women's feelings regarding abortion are complex, intertwined not only with their sense of morality but also with their entire world view.<sup>69</sup> Their feelings about abortion are related to their

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64. Rachel K. Jones et al., *Patterns in the Socioeconomic Characteristics of Women Obtaining Abortions in 2000-2001*, 34 PERSP. ON SEXUAL & REPROD. HEALTH 226, 228 (2002).

65. Stanley K. Henshaw, *Unintended Pregnancy in the United States*, 30 FAM. PLAN. PERSP. 24, 26 (1998).

66. Jones, *supra* note 64, at 228.

67. TRONTO, *supra* note 61, at 2 (emphasis added).

68. Stanley K. Henshaw & Greg Martire, *Morality and Legality*, 14 FAM. PLAN. PERSP. 53, 54 (1982).

69. See KRISTIN LUKER, *ABORTION AND THE POLITICS OF MOTHERHOOD* 158-91 (1984).

fundamental beliefs about motherhood, the proper role of women, and human nature.<sup>70</sup> Thus, to coerce a pro-life woman into abortion or to subject her to pressures to abort wholly offend her understanding of herself and the world.

Policy makers and pro-choice advocates should take affirmative steps toward realizing their asserted goal that abortion policy should be primarily concerned with ensuring women's reproductive autonomy. Since eliminating the choice to abort altogether would undermine the autonomy of many women, the focus should be on ways to mitigate the pressures placed on women like the ones discussed in this paper. One obvious place to look to alleviate these pressures is the public welfare system.

The social support system for women in the United States is gravely at odds with most other countries that have liberalized abortion laws.<sup>71</sup> For example, Sweden's abortion laws, which aim at making abortion a last resort, advance this goal by way of a generous social welfare and child support system.<sup>72</sup> This system sends a dramatically different message to the impoverished woman than does the American system and thereby better respects her capacity for self-determination. Instituting a similarly generous system in the United States would lessen the acuteness of the pressures placed on women. However, the degree of such a system's efficacy would likely be correlated to the extent to which attitudes change concerning the right of the poor to have and raise children. For the poor pregnant woman truly to have a choice with regard to childbirth or abortion, poor mothers must cease to be the object of societal contempt.

In order for the landscape to be transformed, the pro-choice movement must look beyond protecting the reproductive self-determination of the privileged. Kristin Luker has argued that neither the pro-life movement nor the pro-choice movement accurately reflects the complicated and mixed feelings that most Americans hold on abortion.<sup>73</sup> To remain effective, the pro-choice movement must be able to appeal to those whose abortion views are somewhere in between the two extremes.<sup>74</sup>

If pro-choice advocates truly engage with the ideas raised in this paper, they will likely find that promoting their own goal of respecting all women's reproductive autonomy may at times require them to align with pro-life advocates and to address issues, such as improving social welfare programs, with which they have not traditionally been concerned. If, on the other hand, the pro-choice movement remains primarily concerned with ensuring access to abortion and neglects the broader social and political environment that renders the choice to abort problematic for a number of women, it will likely founder in any attempt to capture and maintain public support. It must move toward fully realizing the

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70. *Id.* at 158.

71. GLENDON, *supra* note 41, at 23.

72. *Id.*

73. See LUKER, *supra* note 69, at 216-43.

74. *Id.* at 237.

goal of ensuring the right to “choose” by ensuring that every woman has a right to choose birth just as much as she has a right to abort.

When we realize that respecting autonomy does not always mean maximizing options, we see that we cannot genuinely promote a woman’s autonomous decision to give birth or to terminate the pregnancy in isolation of the multiplicity of factors which affect that decision. A number of issues—such as societal stigmas, our welfare laws, and our healthcare system—need to be addressed in our efforts to respect all women’s reproductive self-determination.

In trying to ensure women’s capability for self-determination, pro-choice rhetoric and policy has focused on protecting the availability of the option to abort, yet has ignored a particular group of women who would choose not to abort. This exclusion is not an innocuous one, since it can act to undermine the autonomy of certain women, especially those trapped in poverty. Whatever impediments to change exist in the social and political landscape, we must not let current attitudes and policy remain unexamined and unchanged. The costs to women and their reproductive autonomy are simply too high.