

Liberty Requires Access to Abortion

By: Ella Heydenfeldt

Argentinian political activist Marta Alanis once said, "The right to abortion signals to young girls the right to their autonomy and the right to their freedom."

The abortion debate in America has been at the political forefront in recent decades. When entering the abortion debate, one must first decide when, during the course of a typical pregnancy, does the fetus develop into a human person with rights comparable to those possessed by infants.

Rights are granted by law. At a federal level, the U.S. Constitution does not provide a definition of "person," though it extends protections to those born or naturalized in the United States. Furthermore, religions and scientists have many disparate views on when life begins. "Unfortunately, biological occurrences are not events, they are processes," states David Magnus, director of the Stanford Center for Biomedical Ethics.

Both medical professionals and bioethicists caution that the beginning of life is a complicated biological process not defined by a single identifiable moment and, therefore, ill-suited to the political arena.

Yet, I believe that a fetus becomes a person when the fetus is viable outside the uterus. When a fetus has a chance of living outside of the mother, the fetus is no longer entirely dependent on the mother. It is a living being with a practical potential to survive outside the mother's body.

The U.S. Supreme Court's 1973 decision *Roe v. Wade* and a critical ruling that followed generally recognized a woman's right to abortion up to a point medical professionals judged a fetus viable to survive outside the uterus at about twenty-four weeks of gestation.

The abortion debate represents a conflict between Freedom and Liberty. Key differences exist between the principles of Freedom and Liberty. Freedom, or "free will," is a broad concept assigned to an individual: the ability for a person to make choices free from coercion or restriction. In contrast, Liberty connotes the collective freedoms afforded to citizens by a state,

country, or government by law and is defined as the right and power to believe, act and express oneself as one chooses.

Another practical matter remains the benefactor: the individual versus society. Individual freedoms, for the benefit of the individual, are bound to conform to religious and ethical doctrines to hold each individual accountable for their actions. In contrast, Liberty includes a collective set of rights offered to citizens for the benefit of a society conditioned by laws for the protection of that society. In this context, Liberty requires limits on individual freedoms.

For example, while the First Amendment protects Free Speech, the U.S. legal system sets limits on this freedom, including time, place, and manner, when it conflicts with other rights and protections. It is illegal to scream "Fire!" in a crowded movie theater for a very good reason. Liberty, therefore, requires limits on individual freedoms for a society to thrive. Yet when a single individual's freedoms remain unchecked and prioritized above those of society, Liberty is undermined, causing society to suffer.

On June 24, 2022, the U.S. Supreme Court overruled *Roe v Wade* eliminating the constitutional right to abortion via *Dobbs v Jackson Women's Health*. "The court said that when life begins is up to whoever is running your state – whether they are wrong or not, or whether you agree with them or not," states Mary Ziegler, a law professor at the University of California-Davis. Yet even within the subsequent passage of state legislation severely restricting abortion, the procedure generally remains morally permissible under certain conditions, including rape and incest.

This illustrates the complexity of the issue, for even if we assume the fetus is a person, some cases of abortion are morally permissible, such as instances of health complications and sexual assault, mirroring the balance that state governments struggle to obtain by granting rights to a fetus versus the collective rights of women.

Due to the intricacies inseparable from pregnancy, such as potential cases of health issues caused by the fetus to the mother, and cases of rape, some abortions must be allowed. If the fetus is threatening the mother's life, it is morally permissible to perform an abortion. While some argue that directly killing a fetus is worse than letting the mother die, the mother owns her body and therefore has a dominant right to choose her own life in self-defense. In cases of rape, it is

morally permissible to perform an abortion, but this suggests that certain fetuses have more of a right to life than others based on how they were conceived.

To simplify this, Judith Jarvis Thomson in her *A Defense of Abortion* brings in the analogy of a violinist being hooked up to your body for the next nine months in order for them to live. This analogy stands up as it illustrates that while you may be a good Samaritan by allowing the violinist to use your body to live, you are neither morally nor legally obligated. You did not consent to be hooked up to the violinist; therefore, Thomson convincingly argues that if the violinist's right to life conflicts with your right to have dominion over your body, the violinist's rights are limited.

Unchecked personal freedoms, such as the violinist's right to life, must be kept in check for Liberty to exist. When there is a conflict, such as the violinist's right to life vs. one's right to control their body, limits must be placed on personal freedoms.

Some may criticize this assertion, stating you would remain hooked up to the violinist if he only needed your kidneys for an hour, suggesting that moral obligation is conditioned on the degree of inconvenience. However, as Thomson references, this is a "slippery slope" argument.

Thomson's assertion maintains validity as this counterargument is irrelevant because even a premature fetus is carried for multiple months. The involuntary sharing of one's body with another for nine months is not a mere inconvenience. The trauma of a forced pregnancy and giving up a part of yourself for adoption is no small thing. In certain situations, perhaps moral obligation depends on the degree to which the person is inconvenienced; however, this argument cannot be used in the context of a full-term pregnancy, the experience of giving birth, and subsequent life-long implications to the mother.

In fact, I would argue that forced pregnancy is outright immoral. As New York representative Shirley Chisholm stated in 1969, "What is more immoral: granting an abortion or forcing a young girl...to assume the responsibilities of an adult while she is still a child?"

Many argue that legal rights apply immediately post-conception; the protected freedom to live and the protected freedom to take nutrients from its mother. By assigning these rights to a human

biological organism independent of the development stage, the organism's rights are prioritized over the mother's, absent sufficient limits to protect the mother's rights.

One right that we as a society do not have is the freedom to kill. This is where Liberty comes into play. When governments eliminate or heavily restrict abortion, liberties are removed from society as females, comprising one-half of society, lose their individual rights to make choices free from coercion or restriction about their bodies, including access to basic health care options. Therefore the larger question is whether rights granted to a fetus conflict with other rights and protections afforded the mother.

The paradox is this: Should a government have the moral or legal authority to grant protections to a fetus prior to its viability outside of the mother's womb at the expense of the personal freedoms of the mother? I am of the opinion that no, the government does not. Restricting a woman's right to abortion is not only an affront to reproductive freedom, it further erodes collective liberties that benefit society, including access to Healthcare, fair and equal pay, and the pursuit of happiness. Women deserve freedom of choice; sovereignty over their bodies.

Assigning protections to a fetus prior to viability outside the womb is dangerous. Such blanket protections provided for the unborn will frequently conflict with existing rights and protections of women, further complicated by numerous individual factors, including the circumstances that led to conception, potential pregnancy complications, and socio-economic conditions to name a few.

Morality should not be forced on an individual. By extension, laws adjudicating morality that restrict or impede existing rights and protections are themselves immoral.

At the end of the day, personal freedoms and protections are essential. Yet when the public interest in protecting potential human life results in laws enforcing a subjective moral position that conflicts with other rights and protections, society becomes less "free." For Liberty to thrive, abortion up to twenty-four weeks must remain accessible to women as a healthcare option.

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