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Most philosophical discussions of abortion have addressed such issues as the personhood of the fetus, the omission-commission distinction, and the rights of women to control their bodies. But as central as these issues are, they do not exhaust the moral problems connected with abortion. Further problems, less noticed by philosophers, are raised by society's role in the affair, and specifically by the fact that the government may not only tolerate abortions, but also may fund them through programs such as medicare or welfare. Of the questions thus raised, one is whether women have a right to be provided with abortions which they want but cannot afford, while another is how society should respond to the deep moral disagreement about abortion which divides its constituent groups. In this essay, I shall discuss these questions and the connections between them. Although my main aim is to bring philosophical order to an often undisciplined public debate, I also hope to shed reflected light on some broader issues of rights and moral compromise.

I

The distinction between elective and therapeutic abortion is not exclusive. A woman may elect to have an abortion for purposes wholly or partly related to her health. Nevertheless, the issues which concern us emerge most clearly when the aim is entirely nontherapeutic; and I shall consider only such polar cases here. For similar reasons, I shall adopt narrow definitions of health and therapy, so that, for example,

poverty and a hard life are not themselves states of ill health that could be mitigated by abortion. While it may be tempting to say that abortions performed for these reasons are therapeutic, this tactic would gain us no real ground. If we adopted it, our distinction between therapy and non-therapy would merely reappear as a distinction between *types* of therapy.

Given our view of elective abortions, should we say that poor women have a moral right to be provided with them? *Prima facie*, it may seem impossible to answer this question without first ascertaining the moral status of abortion itself. If elective abortions are seriously wrong, then poor women cannot have a right to be provided with them. But on further inspection, this suggestion is not fully satisfactory. Whatever their ultimate moral status, elective abortions are now widely available in the United States; and their availability has been found by the Supreme Court to be constitutionally guaranteed. Because abortion is thus officially tolerated by our legal system, its permissibility for us as a society is no longer an open question. In condoning elective abortion for women who can afford it, we have in effect reached a societal judgment that the practice is not seriously wrong. Moreover, despite some continuing controversy, we also seem to be moving toward a decision to provide basic medical care for those who cannot afford it. In view of this, a right to be provided with elective abortions may seem to follow from the more general right to consistent and nondiscriminatory treatment. Given our tolerance of elective abortions and our funding of other medical services, how can we refuse to provide funding for elective abortions? To be consistent, must we not either fund abortion as we do other medical procedures, or else reverse our judgment that abortion is permissible for those who can afford it? If we do otherwise, then are we not merely discriminating against the poor?

There is plainly something right about this argument. Given the societal judgment that abortion is morally permissible, we cannot consistently refuse to fund abortions for the poor on the grounds that they (alone) are morally wrong. To do this would be to indulge in the worst sort of hypocrisy. However, it is one thing to say that *this* sort of refusal to fund elective abortions is indefensibly inconsistent, and quite another to say the same for *any* refusal to fund such abor-

tions. To say the latter would be to invoke an inappropriately rigid standard of consistency in policymaking. It is true that society tolerates abortions and funds appendectomies, and true also that both are performed by medical personnel in a clinical setting. Still, as long as appendectomies differ from abortions in significant ways, it is no more inconsistent for government to fund the former but not the latter than it is for government to provide coupons for the purchase of food but not sweaters, or tax credits for insulation but not other home improvements. Moreover, whatever their moral status, abortions plainly do differ from appendectomies in many significant ways. Even if they are morally permissible, abortions remain distasteful in a way that appendectomies are not. Moreover, elective abortions are not aimed primarily at improving health, while appendectomies are. Given these and other differences, the case for government funding of elective abortions cannot be made on grounds of formal consistency alone. And neither, I think, can it be made on the related grounds that to permit abortions without funding them is to discriminate against the poor; for precisely the same is true in *every* instance where we permit the enjoyment of an amenity without subsidizing it for everyone.

The claim that it is consistent to fund appendectomies but not elective abortions establishes very little. A policy may be consistent and yet violate any number of other substantive rights. But which other rights, exactly, could ground the right to be provided with elective abortions? The right to be provided with medical care is inappropriate because of the fact, already noted, that elective abortions are not typically aimed at the maintenance or improvement of health. The right to privacy is another possibility; but despite what the Supreme Court has said about it, its connection with abortion seems too tenuous and indirect to be credible. In view of this, the most promising basis for a right to be provided with elective abortions may seem to be a kind of generalized welfare right—a right to have one's basic needs met by society if one cannot meet them oneself. Of course, since welfare rights are positive rights—are rights not merely to be left alone, but rather to be provided with goods or services supplied by others—their very existence is a matter of controversy. But we cannot resolve this controversy here, and so I shall simply assume that some

such rights exist. Granting this, how plausible is it to suppose that the right to be provided with elective abortions falls among them?

Since welfare rights are rights to be provided with what one needs but cannot afford, the question of whether they include the right to elective abortions depends on whether elective abortions satisfy basic needs; and this depends on our interpretation of basic needs. If basic needs encompass only the requirements for biological survival, then a general welfare right will dictate some therapeutic abortions, but no purely elective ones. However basic needs may also be construed more broadly, as encompassing all the requirements for effective functioning in contemporary society; and on this interpretation, the case for a right to elective abortions looks more promising. Given the limitations imposed by children one cannot afford, it seems reasonable to suppose that an abortion is often as necessary for a poor woman's effective functioning as access to transportation, education, or some discretionary income. Of course, while one cannot avoid the need for transportation, education, or money, one *can* avoid encumbrance by an unwanted child by simply giving it up for adoption. However, given the strength of parental feelings, the request that one give up a child already brought to term seems neither reasonable nor humane. Thus, the proper conclusion seems to be that elective abortion is lower than the most essential items, but higher than many others, on the overall scale of basic needs for the poor.

Given this conclusion, the right to be provided with elective abortions may seem to follow from a liberal, yet not implausible, interpretation of welfare rights. But on closer inspection, even this liberal interpretation does not secure the desired result. If the purpose of providing elective abortions is to enable poor women to function effectively within society, then that purpose will be equally well served by providing them with enough additional money and ancillary services to support their unaborted children. If such additional support is provided, then they will not be thrust into unmanageable poverty by those children. Hence, a right to the prerequisites for effective functioning does not automatically yield a right to elective abortions. Instead, it yields at best a disjunctive right to be provided with either additional support *or* abortion. Of course, the additional support is apt to be considerably more costly than abortion; but whether so-

ciety can or should absorb this cost is a separate issue. The present point is only that if society does choose to absorb it, it violates nobody's rights.

This conclusion might be disputed. What we have missed, it may be argued, is that even if a woman is not thrust deeper into poverty by her unwanted child, that child can drastically restrict her freedom of movement. It can drastically reduce her vocational, geographic, and personal options, and so impose a real limitation on her liberty. In view of this, the right to be provided with elective abortions may seem to flow from a more general right to be provided with the prerequisites of liberty and self-determination. And this more general right may be defended either as being fundamental, or as being an important corollary of the right to have one's basic needs satisfied.

If this argument were sound, it would indeed establish a categorical right to be provided with elective abortions. But even apart from any difficulties with the alleged general right to be supplied with the prerequisites of liberty,¹ the argument is highly problematical. On any reasonable construal, the proposed general right will not require the protection of liberties which are threatened by the prior exercise of liberty itself. If one's options are foreclosed by the foreseeable and easily avoidable consequences of one's own past choices, and not by uncontrollable externalities, then any right to the prerequisites of liberty has already been satisfied. But given the easy availability of reliable contraception, precisely this appears true of most unwanted adult pregnancies. Setting aside the young and uneducated, for whom special provision might be made, most women who become pregnant without wanting to, appear to do so because they neglect to take rudimentary contraceptive precautions (or to see that such precautions are taken). But if so, then a right to be provided with elective abortions is not derivable in the standard case at all.

There is, moreover, a further difficulty with the attempt to ground a right to elective abortions in a more general right to the prerequisites

1. One problem with the alleged right concerns its intelligibility. Because it treats liberty as a single item, and not as the absence of particular restraints on particular activities, the right as stated seems incompatible with MacCallum's widely accepted triadic analysis of freedom. For details, see Gerald MacCallum, Jr., "Negative and Positive Freedom," *The Philosophical Review* 76 (1967): 312-34.

of liberty. Even where a woman's pregnancy is due to the unavailability or ineffectiveness of contraception, and not to mere carelessness, it is by no means obvious that her liberty *will* be drastically restricted if she is not provided with an abortion. Her liberty would be so restricted if women had to raise all the children they bore. However, as we noted above, it is always possible to give an unwanted child up for adoption. It is not humane to make a woman's material well-being depend on her willingness to give up her child. But where the issue is not her material well-being, but rather her preference for a life without the child, the case looks quite different. Here any right to liberty seems well enough served if she is allowed to choose between the child and the style of life she wishes to have after the child is born. Of course, the choice is apt to be considerably more difficult then; but difficult choices, far from impeding the exercise of liberty, are part and parcel of it. One might perhaps counter that complete liberty requires the ability to prevent the formation of desires (for example, maternal ones) which one believes will lead to the abandonment of one's present plans. However, while our relation to our future selves is puzzling and difficult,² it seems implausible to say that a person's freedom is seriously restricted by the inability to manipulate future desires. In view of this, it seems unlikely that a categorical right to be provided with elective abortions can be derived from a right to the prerequisites of liberty.

II

So far, we have focused entirely on the claim that the poor have a moral right to be provided with elective abortions. We have considered and rejected three distinct attempts to establish such a right. But even if all appeals to this right are mere inflated rhetoric, it hardly follows that the government has no reason to fund elective abortions. Given the enormous financial cost of providing adequate support for all unabortted children, given the manifest undesirability of further

2. For an interesting discussion of the way our relation to our future selves is connected to our moral obligations, see Derek Parfit, "Later Selves and Moral Principles," in Alan Montefiore, ed., *Philosophy and Personal Relations* (London: Routledge & Kegan Paul, 1973), pp. 137-69.

overpopulation, and given the carnage wrought by illegal abortions performed under unsanitary conditions, there is obviously a strong utilitarian case for government funding. Of course, utilitarian arguments are often overridden by the fact that maximizing utility would violate someone's rights; but here, as before, the appeal to the fetus' right to life seems to be blocked by the prior societal decision that there is no such right. Thus, the utilitarian case for government funding may at first appear quite overwhelming.

But even if the utilities do strongly favor government funding, there is a further dimension to the problem. To bring this out, we need only recall that the decision to tolerate abortion is by no means unanimous. Even if society as a whole *has* accepted the permissibility of abortion, many members of it emphatically have not. To these individuals, the legalization of abortion represents a serious moral error, and a government policy of paying for it merely compounds the error. For them, any appeal to society's collective decision is vitiated by the conviction that that decision is badly mistaken. But what exactly does this mean? Given their own moral views, must these persons continue to oppose abortion with every tactic which they believe appropriate to its gravity? Or is there a more general and independently grounded moral principle which tells against this? If there is, does it require that those who tolerate abortion make any concession in return? To ask these questions is to raise the difficult issue of compromise among parties with radically divergent moral views; and it is to this issue that I now turn.

One argument against continuing opposition by anti-abortionists can be dismissed at the outset. It is often maintained that those who oppose abortion are acting properly when they themselves refuse to abort, but not when they attempt to prevent others from aborting as well. When they try to ban *all* abortions, the argument goes, they overstep the bounds of tolerance by imposing their own moral views upon others. But the principle which underlies this argument, that all morally controversial decisions should be matters of individual conscience, is plainly untenable. Even the most ardent proponents of tolerance would deny that wife-beating, slavery, or murder are matters of individual conscience; and their position would hardly be affected by the discovery that some or most other persons consider

such practices morally permissible. The abortion issue is clouded by the fact that some who oppose abortion do so on religious rather than purely moral grounds. However, as long as the conservative position on abortion can be articulated in purely secular terms—as I believe it can—the basic point remains. If an act is seriously wrong, we may well be obligated to prevent others from performing it. Hence, those who believe that abortion is murder are hardly overstepping the bounds of tolerance when they try to prevent others from aborting.

Given these considerations, the opponents of abortion appear to be doing exactly what they should be doing when they seek its total abolition. Indeed, given the enormity of the wrong which they believe abortion to involve, what is puzzling is why they are not doing even more. Where systematic murder is concerned, not only political pressure, but also relentless civil disobedience and other forms of extra-legal resistance seem called for.³ Of course, such actions are not really justified unless abortion really is murder; but since we have no direct access to moral facts, this observation is not particularly helpful. What is important is that from their own perspective, conservatives seem obligated to wage a no-holds-barred campaign against abortion, while from their perspective liberals seem equally obligated to resist those tactics which they view as outside the bounds of political legitimacy. If each side acts consistently on principles conscientiously arrived at, the result will apparently be an unending, acrimonious, and lawless contest of wills.

3. Some extra-legal resistance to abortion has surfaced in the years since *Roe v. Wade*. As a recent magazine article reports, "Many . . . women (have) had to cross picket lines to obtain abortions; some subsequently received telephone calls charging them with murder. Abortion clinics in every region of the country have been disrupted repeatedly and more than a dozen have been firebombed. In St. Paul, Minn., where Planned Parenthood has spent \$284,000 repairing fire damages, staffers continue to cope with arson, attempted bombings, bullets fired at the clinic, windows smashed with cement blocks, walls sprayed with graffiti (including swastikas and Ku Klux Klan initials), door locks sealed with glue, pickets, boycotts of businesses associated with Planned Parenthood's board of directors, prayer vigils, and kidnap threats." Helen Epstein, "Abortion: An Issue that Won't Go Away," *The New York Times Magazine*, 30 March 1980, p. 45. But as striking as such activities are, they hardly begin to approach what might be done to combat (what conservatives must consider) the nine million murders of unborn persons committed since 1967.

Now there may be some disputes whose contending factions are committed by their principles to just this sort of strife. It may even be that the abortion dispute is among these. But before we accept this pessimistic conclusion, we will do well to examine an alternative possibility. It seems possible to combine even a stern deontological code of ethics with a higher-order moral principle which moderates what one is required to do when one's efforts to act morally conflict with the similarly motivated efforts of others. By accepting a principle of this sort, we acknowledge both our own fallibility and the status of others besides ourselves as moral agents. But if some such principle is acceptable, then the parties to the abortion debate may not be locked into an endless and no-holds-barred struggle. Instead, even if the legal status of abortion continues to divide them, definite limits may be introduced into the conflict. Tactics which are permissible to prevent murder (or to defend against the unwarranted use of such tactics by others) may no longer be permitted. The conflict may be deescalated.

It is not easy to specify precisely the conditions under which one can compromise one's moral convictions without compromising oneself.⁴ However, one plainly relevant factor is the complexity and uncertainty of the subject. If one's convictions involve principles whose grounding is itself problematical, if the opposing view is also supported by plausible-sounding arguments, and if thoughtful and intelligent persons are unable to agree about the issues, then only a dogmatist will deny that he may well be mistaken, and his adversary correct. But once this acknowledgment is made, such considerations as respect for one's opponent and the value of mutual accommodation may permit (or even require) adjustments in behavior that would otherwise be inappropriate. Moreover, precisely these features are present in the abortion dispute. Such issues as the possibility of imaginative identification with the fetus and the moral significance of potential personhood are as obscure and difficult as any in the moral

4. This apt formulation is introduced by Arthur Kuflik in his article "Morality and Compromise," *Nomos XXI: Compromise in Ethics, Law, and Politics*, ed. J. Roland Pennock and John Chapman (New York: New York University Press, 1979), pp. 38-65. Throughout this section, I have drawn heavily on Kuflik's illuminating discussion.

sphere; and neither liberals nor conservatives have produced a powerful general account of the moral personhood of normal adult humans.⁵ In view of this, the abortion dispute is quite unlike such apparently related questions as whether contraception is permissible. Concerning abortion, but not contraception, both liberals and conservatives must in candor admit that the opposition has a genuine chance of being right.

Given all of this, the case for moral compromise in the abortion dispute appears promising. But what form, exactly, might such a compromise take? Since abortion is now widely available, and since a total ban on it would violate a strong presumption against unnecessary government interference with citizens' activities, it does not seem reasonable to ask the liberal to accept a proposal to make all abortions illegal. However, what does seem reasonable is to ask him to accept measures whose effect is to diminish the number of abortions *without* undue government interference. Such measures might include expanded programs of contraception, expanded adoption facilities, and perhaps also laws limiting abortions to the stages of pregnancy at which personhood is least certain. On the other side, since conservatives consider abortion a form of murder, it seems unreasonable to ask them to relinquish their efforts to make it totally illegal. However, what we may reasonably ask of them, in return for measures limiting the number of abortions performed, is that they (continue to) abjure the more extreme responses that would normally be called for by an officially sanctioned policy of murder. It is one thing to apply political pressure, quite another to firebomb an abortion clinic. Even if the conservative forswears only the latter tactics—tactics which would have been quite appropriate if employed in Hitler's Germany—his concession will be a major one, and the gain in civility substantial.

With this in mind, we may now return to our original topic of government funding of elective abortion. Since both sides of the abor-

5. The recent literature on these issues is voluminous. Several of the more important articles are reprinted in Marshall Cohen, Thomas Nagel, and Thomas Scanlon, eds., *The Rights and Wrongs of Abortion* (Princeton: Princeton University Press, 1974). Also worthwhile are Jane English, "Abortion and the Concept of a Person," *Canadian Journal of Philosophy* 5, no. 2 (October 1975): 233-43; and R. M. Hare, "Abortion and the Golden Rule," *Philosophy & Public Affairs* 4, no. 3 (Spring 1975): 201-22.

tion dispute may have good moral reasons to compromise their positions, the natural question to ask about such funding is what role it might play in a reasonable compromise between them. Because an acceptable compromise will limit abortions without forbidding them entirely, and because not subsidizing abortions seems to violate no one's rights, the obvious suggestion is that a proper compromise will include no government funding of elective abortions. This impression is confirmed, moreover, by two further considerations. First, any policy of government funding for abortions must draw upon tax monies collected from conservatives as well as liberals; and this must place conservatives in a position of actively supporting abortions rather than reluctantly tolerating their performance by others.⁶ Second, such a policy must amount to an implicit government endorsement of abortion, and so must provide it with a symbolic legitimacy which conservatives wish to withhold. On both grounds, a compromise which includes government funding of elective abortions may not be one which conservatives can reasonably be asked to accept.

If this is so, then even a stalwart liberal may have a good (second-level) moral reason not to press for government funding of elective abortions. By relinquishing his claims in this area, and attending to the needs of the poor in other ways, he may hope to reach an accommodation with the conservative which is not otherwise possible. This accommodation may indeed be more costly than providing abortions for all who want them; but if the accommodation is genuinely called for on moral grounds, its cost should not be prohibitive. And, of course, the liberal who accepts it may still contribute voluntarily to private organizations providing free abortions to the poor. The more difficult question is whether conservatives should accept even this type of compromise. We have presented some considerations in favor of

6. The point I am making here is *not* that tax monies should never be used to support policies with which some segments of the population disagree. Although this principle is sometimes invoked against subsidized abortion, it is implausible on its face. If government never funded policies which were unpopular or controversial, it would be unable to do much of anything. The point I am making is much narrower, and applies only to cases in which public policy is contested on moral grounds. Furthermore, the principles underlying the disagreement must be both supported by reasonable arguments and serious enough to justify extra-legal activity.

it; but there are arguments on the other side as well. More specifically, it may be contended that (1) the propriety of a moral compromise should not depend on such morally irrelevant facts as the baseline determined by the current wide availability of abortions, that (2) we can morally compromise our own interests, but never our duty to protect the interests of others, or that (3) the greater concessions should be made by the side whose actions are potentially the more seriously wrong—in this case, the liberal side. If one of these replies is correct—and it would take a full-fledged theory of moral compromise to evaluate them all—then the liberal's restraint concerning government funding will warrant no answering concession by the conservative. However, in that case, the conservative will justifiably view his position as more nearly uncompromisable than the liberal's; and so the liberal's restraint may still be called for. Some conciliatory gestures are appropriate even though they will be neither acknowledged nor reciprocated.

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