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in the United States

Gene Burns

Excerpt

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## I

## Introduction

In the early twentieth century, opponents of contraception often perceived the promotion of birth control as part of a radical socialist movement. There was also a strong moral argument against contraception, which by the 1920s was led by Catholic prelates. Repeated attempts to persuade federal and state legislatures to overturn anticontraception laws failed, so the prelates appear, at least at first, to have been successful in their opposition. However, it is a bit strange that they would be successful, since anti-Catholicism was rampant; arguably, associating any issue with the Catholic Church at that time was almost sure to be an enormous political handicap. The failure to convince legislatures to overturn anticontraception laws is doubly puzzling given that there is considerable evidence that many Americans found accessible contraception an appealing prospect.

The history of the politics of abortion laws also has strange twists and turns. Physicians were central in the movement to outlaw most abortions in the mid- to late nineteenth century. Physicians were then central in the movement favoring moderate liberalization of abortion laws in the 1960s: These reformers and their allies convinced quite a few state legislatures that they should institute abortion law reform because abortion was *not* a moral issue. They had particular success convincing Southern legislatures to liberalize abortion laws, though today the South has a particularly strong pro-life movement.

The way that we think and talk about contraception and abortion seems natural to us now. But the way we think about these issues

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now may sound as odd half a century from now as does the idea that Southern states were particularly likely to liberalize their abortion laws in the 1960s, or that contraception was once a socialist cause. That past discussions of an issue appear strange, even inconceivable, to us suggests that a great deal of social change has taken place.<sup>1</sup>

The twists and turns of the debates over contraception and abortion initially seem confusing because we expect that the way that we ourselves define debates is the way that everyone else defines the same debates. This is often true, even when we look at contemporary debates: We can see our opponents as obviously wrong because we often define the issue for ourselves in a way that makes the opposing position contradictory and untenable. We do not see that our opponents define the issue quite differently and so refuse simply to adopt the mirror image of our own opinion. They maddeningly refuse to define the issue in our terms; from their perspective, it is we who hold an absurdly untenable position.

When we look to the past, we are even more likely to project our own definitions, our own understandings, of what a controversy is really about. But there are typically diverse ways that any given social and political debate can be framed. And, for debates important enough that they have a long history, the issues typically *are* framed in diverse ways over time. Consequently, groups that manage to ally at one point in time may find alliance impossible once the terms of debate have changed. Whole sets of controversial questions may define the debate at one time and then disappear at another.

This study asks why contraception and abortion have been issues of heated public controversy at some times and not others. The answer to that question, I will argue, is found by understanding how the participants in debates over contraception and abortion have collectively framed the debates over time. A number of historians and social scientists have noted the shifting nature of alliances and of the frames that informed these debates.<sup>2</sup> Their primary focus, however, has not been

<sup>1</sup> On the methodological approach of looking for what appears strange to us but did not appear strange to contemporaries, see Robert Darnton, *The Great Cat Massacre and Other Episodes in French Cultural History* (New York: Basic Books, 1984).

<sup>2</sup> Most notably Linda Gordon, James C. Mohr, Kristin Luker, Rosalind Pollack Petchesky, Faye D. Ginsburg, and Carole R. McCann. For an accomplished study of the changing public rhetoric used by different participants in discussion and debate

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on explaining why these coalition shifts have ultimately affected how controversial the debates have been. But, because different coalitions produce different frames, a shifting coalition can dramatically redefine what an issue is about and thus dramatically change the salience of an issue and the level of controversy.

I do not think the issues of birth control and abortion are necessarily unique in this respect. But these dynamics may be easier to see in the debates over contraception and abortion than in other debates, partly because reproductive politics has been such a familiar presence in recent decades. We tend to think of abortion, especially, as inherently controversial. And yet abortion has, in other contexts, often been quite uncontroversial. In addition, in the early twentieth century contraception was remarkably divisive, and yet a gradual reframing of the issue defused much of the debate. Contraception involved many of the same issues that have affected abortion debates: sex roles, the value of children, sexual morality, and conflicting views of the family. A comparison of the path of contraception with the path of abortion is thus likely to provide insight into both.

**Apparent Contradictions**

The politics of abortion has received a great deal of attention from social scientists since the 1973 U.S. Supreme Court decisions in *Roe v. Wade*<sup>3</sup> and *Doe v. Bolton*.<sup>4</sup> To a lesser, but still significant, extent, the politics of contraception has also received considerable attention over the years, largely because the leader of the early-twentieth-century birth control movement, Margaret Sanger (1879–1966), has remained a compelling topic for biographers, historians, and polemicists. However, I would argue that there has not been a full attempt to explain the rhythms of political history and social movement history surrounding these issues, namely why these issues have been controversial some times and not others.

of abortion from the 1960s to the 1980s, see Celeste Michelle Condit, *Decoding Abortion Rhetoric: Communicating Social Change* (Urbana and Chicago: University of Illinois Press, 1990). Condit does not focus on the larger political dynamics but gives a good account of the type of images and ideas that have surrounded the issue.

<sup>3</sup> 410 U.S. 113 (1973).

<sup>4</sup> 410 U.S. 179 (1973).

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The twentieth-century history of American reproductive politics is rife with apparent, though unexplained, contradictions, in addition to those I have already noted. Among the apparent contradictions are the timing of legal changes surrounding the issues, the context of those changes, and the immediate beneficiaries. In short, more often than not, legal changes took place not when there was a great deal of attention to the issues, but when there was little attention. The context of such changes is that they often occurred in places (e.g., courts rather than legislatures, or one region of the country rather than another) that make little obvious sense in hindsight – and indeed, are often quite opposite to our expectations – or in places that were not the primary focus of activists pursuing such changes. The immediate beneficiaries – usually physicians – were often not particularly interested in the issue at the time.

For example, the movement promoting birth control, associated with Margaret Sanger, tried to overturn the many legal restrictions on its dissemination. The movement was especially visible and vocal in the 1910s, but, as mentioned earlier, its activism resulted in little concrete success. The main victories in favor of legal, accessible contraception did not begin until the second half of the 1930s – a couple of decades after attention to that movement (and the movement itself) had mostly faded away.

By the early 1920s, in fact, advocacy for birth control was much less like the grassroots affair that it had been in the 1910s, and more of a lobbying effort by professionalized organizations. Birth control advocates spent the 1920s and 1930s pushing for *legislative* change, but the legal changes of the 1930s took the form of court decisions. Again, success did not come in the form that interested groups actually attempted to effect: Indeed, the most important substantive implication of those court decisions was that they greatly widened the right of physicians to dispense contraception as they saw fit. But, although some prominent advocates of contraception were physicians, there was hardly a broad medical movement that saw contraception as a burning issue. In fact, when activism in favor of accessible contraception was at its height in the 1910s, physicians were often seen as the enemy.

One would think abortion would be a more intrinsically controversial issue than contraception but, in fact, liberalization of abortion laws sailed through a number of state legislatures in the late 1960s. This was

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before there was much grassroots concern for, or even awareness of, abortion as a public issue; those who did talk about abortion did not generally speak of it in the pro-life vs. pro-choice terms familiar to us today. Small numbers of liberalizing physicians, lawyers, and clerics advocated new, more lenient laws, the goal of such laws being to allow unhindered the professional and humanitarian practice of medicine. Still, as with contraception earlier in the century, it was hardly the case that American physicians as a whole saw abortion as a central concern in their medical practice. But the argument that physicians should decide when abortion was appropriate was entirely convincing to a number of state legislatures, especially in the part of the country we would least expect, that is, the South.

Greater attention to the issue made it harder, rather than easier, to push legislatures into changing the law. That is, once there really were social movements heavily involved in debate over abortion – starting in about 1970 – it became nearly impossible to get any kind of abortion law through a legislature. That was not the only change: It was also the case that physicians were pushed to the side, and the grass roots took up the issue. And so, ultimately, did the courts, especially in the 1973 U.S. Supreme Court decisions, *Roe v. Wade* and *Doe v. Bolton*. Again, by 1973, the original handfuls of physicians attempting to change the laws were not important parts of the increasingly acrimonious public or legislative debate. But, mirroring the contraception court cases of the 1930s, the Supreme Court justified its 1973 decisions most explicitly and unambiguously in terms of physicians' right to practice medicine, not in terms of women's right to abortion. Relative to the previous legal status of abortion, the recognition of significant women's rights to choose abortion was arguably the most dramatic *innovation* of the 1973 decisions. Still, women's rights were not as unequivocally asserted as were physicians' rights; the recognition of the right of physicians to significant autonomy in making professional judgments about reproductive matters had a significant judicial history that was continued in the 1973 decisions. Once again, when it came to reproductive issues, courts seemed quite willing to hand physicians great victories, though physicians were not actually seeking such victories: that is, by 1973, the aura of physicians' professional autonomy remained quite influential in the courts, but physicians were no longer major players in the larger political battle over abortion.

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Why do doctors have such success in the legislatures and the courts, even when they do not seek such “success”? Why has legal change in the status of contraception and abortion so often come when vocal social movements in favor of such change are *absent* from the scene? How could the South, of all places, have been particularly receptive to liberalizing its state abortion laws in the late 1960s (even though, again, groups we generally think of as favoring abortion rights were absent in the South)?

In asking these questions, we start to see that the debates over contraception and abortion have taken some apparently very odd twists and turns. Practices painted as moral outrages become major public controversies, then, over time, they disappear from public view. They sometimes reemerge as uncontroversial, respectable causes lacking very specific moral relevance. I will argue that we can understand these changes once we understand the dynamics of framing, as it affects social movements, legal change, and public policy debates.

I have attempted to organize this book so that it is interesting and accessible to a variety of readers – including those who could give a darn about sociological theory – while still making a worthwhile sociological argument that contributes to ongoing agendas of research within that discipline. In this introduction, then, I briefly sketch what I intend to argue, including how I use the concept of a “frame.” Subsequent chapters follow the shifting coalitions and shifting frames in debates over contraception and abortion. The last couple of chapters, especially the concluding chapter, return to some of the theoretical concerns involved in studying these issues, which will be much easier (and less abstract) to address once the reader has encountered the history of the debates. Sociological analysis has a particular contribution to make in understanding moral conflict in American society. Thus there are particular sociological arguments – which necessarily have an important theoretical dimension – worth exploring in an extended discussion at the end of the book.

Most of the book’s chapters focus on the historical development of these debates. I organize the discussion in a way that allows an easy transition into the sociological argument developed in greater detail in the final chapters. Through the first six chapters, I utilize primarily two central concepts, that of framing and the “moral veto.” The closing chapter, again, will flesh out in further detail how we conceptualize certain other sociological phenomena of interest in this book.

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In this first chapter, however, I will define what I mean by these central concepts of “frame” and “moral veto.” Within this discussion I will also describe two important and distinct types of frames, that is, “limiting frames” and “moral worldviews.”

**Framing the Debates**

By asking how people “frame” contraception or abortion, I mean to ask, what do they think the issue is *about*? For instance, is abortion primarily about “unborn children” (as the pro-life frame would insist) or is it about women’s right to choose (as the pro-choice frame would insist)? All of us have encountered situations where the language we use is not neutral but implicitly legitimizes one way of framing a situation. For instance, to call the mid-nineteenth-century war between Union and Confederate forces the “Civil War” implies that the war took place within one country; thus many Southern whites long referred to it as the “War between the States,” implying it was a multitude of states, not a single country, that were the primary actors in the conflict. To such Southerners, the war was *about* states pursuing their own choices and destiny, including the right to leave a country, that is, a union. Thus the war did not occur within one single country and cannot be called simply a “civil war”; implicitly, then, they frame the conflict to legitimate a particular view of the war.

If we look at the history of conflict over contraception and abortion, we find a variety of ways of framing contraception and abortion, a number of which seem obvious to us, others that do not. Within the contemporary discussion of abortion, for instance, there are two particularly visible frames, the pro-life frame and the pro-choice frame. Within the pro-life frame, abortion is a matter of whether one supports, or does not support, the right to life of an unborn child. Within the pro-choice frame, abortion is *not about* children; it is about preventing particular moral opinions from becoming enshrined in law, especially preventing laws that deny a woman’s right to make her own reproductive choices. This is not to say that children are not important, only that the debate over abortion is not about children. Just as staunch Southern Confederates did not use the term “Civil War,” pro-choice advocates would never use the term “unborn child.” They would probably say “fetus” rather than “child,” but, more to the point, they would talk about completely different issues from the start. They would want to

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avoid implying that the pro-life movement, in talking about “unborn children,” has properly defined the terms of the debate.

At other times and in other places (e.g., in a number of state legislatures in the 1960s), what I call a medical, humanitarian frame has guided the discussion of abortion.<sup>5</sup> This frame portrays abortion as a regrettable tragedy, in which physicians provide assistance to women who deserve sympathy for being in a difficult situation. Physicians use their professional medical judgment to decide when abortion is appropriate; they do not make such a decision lightly, but (again, within this frame) medical judgment includes humanitarian sympathy for patients in unfortunate circumstances. Within the medical, humanitarian frame, then, abortion is not a matter of “life” or of rights. While pregnant women are the objects of sympathy, neither they nor fetuses are particularly visible subjects in the decision-making process. Abortion is not desirable but can be necessary, and moral absolutes or politicization are generally to be avoided.

Similarly, as we see in subsequent chapters, contraception has been framed in various ways. One frame in favor of accessible contraception was a feminist frame, in which the issue was a woman’s right to control her reproduction. Another frame in favor of contraception, in contrast, saw it in socialist terms, as a means by which the working class could control their lives. With contraception, the working class could avoid producing large numbers of children whose parents could not afford to raise them, children who would grow up, like their parents, to provide labor that benefited wealthy capitalists.

It is often possible to express different opinions within a single frame. For example, if debates over foreign aid are framed in terms that assume that the goal of foreign aid is to extend the influence of the United States, one may be in favor of foreign aid because of an assumption that such aid does indeed make recipients more friendly to the United States. One could oppose foreign aid, within the same frame, with a claim that recipient nations ignore U.S. preferences. In either case, to ask whether foreign aid is valuable is to ask whether it influences the

<sup>5</sup> The medical component and the humanitarian component are sometimes separated from each other, with interesting consequences, as I develop in later chapters. However, for now, as the discussion here is primarily illustrative, I will consider the two components as part of a single frame.



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policies of recipients, that is, to use the same frame. The issue of foreign aid is framed as a matter of international influence (within this frame): that is what foreign aid is about.

However, there exist distinct frames to the extent that different sides on an issue are in fact *not* directly negating the position of the other side, but rather that they think that the other side's position is a distraction from the *real* issue. For example, if one thinks that foreign aid is always good because it is a form of charity, that is, helping those less fortunate than ourselves, then the degree of influence the United States gains in a country that receives such aid is not the primary concern.

Framing is probably most effective in attracting support when it would be political suicide for opponents to take the opposite position within the same frame. Thus, opponents of foreign aid do not proclaim "we want to hurt people who are less fortunate than ourselves." Instead they use a different frame, as in the previous example: Discussing foreign aid as a matter of extending U.S. influence implicitly treats charity as a secondary or irrelevant concern in the debate over foreign aid. It does not directly deny that charity (in the proper context) is a good thing but instead avoids the issue.

The same is true of the contemporary debate over abortion: It is logically possible to take a position directly opposite that of the pro-life or pro-choice position, but generally no one does so. That is, we do not hear activists referring to themselves as "anti-life" or "anti-choice": They might so label their *opponents*, because to do so makes their opponents appear to take an unreasonable position. By using *different* frames, each side implies that the other side's concerns are secondary or irrelevant to the real issue, and each side denies the right of the other to define the terms of debate. Opponents of the pro-life movement do not argue that they think that killing children is a good thing: They instead say that killing children is not what is going on, or, perhaps more likely, they never specifically address the pro-life claim about fetal rights. They would describe the issue of abortion as a completely different matter: In their frame, different questions would be at stake. Usually they would cite the tragic circumstances that make abortion a reasonable choice, the right of individuals to make their own moral decisions in a pluralist society, the rights of women to control their reproduction, or some combination of these appeals. If pushed to answer "yes" or "no" to the question of whether fetuses have a right to life, they may say no,

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or they might argue that a developing life, or a potential human being, does not have the same rights as an already-born human being. But they would probably feel that that entire set of issues is at best secondary to other concerns involved in the legality and accessibility of abortion. They would rather not argue questions that matter primarily within the pro-life frame. When adversaries are using different frames, agreeing to debate within the opponent's frame is often strategic suicide.

Thus, pro-life forces do not directly negate the pro-choice position; they believe the pro-choice movement misstates what the issue is *about* (i.e., uses the wrong frame). Pro-life advocates do not generally claim to be against pluralism, against human sympathy in tragic situations, or against the equality and rights of women. Instead they would reject the relevance of the pro-choice frame entirely, as in the pro-life bumper sticker, "It's not a choice; it's a life." It's not *about* choice. It's about unborn babies. Many pro-life advocates would probably be willing to agree, at least in theory, that they're in favor of women's equality and the right of people to hold different opinions, although their position also in fact denies the existence of some of the rights pro-choice advocates would claim, especially the right to terminate a pregnancy.<sup>6</sup> But, in general, pro-life advocates do not want to discuss the issue in terms

<sup>6</sup> See Faye D. Ginsburg, *Contested Lives: The Abortion Debate in an American Community* (Berkeley: University of California Press, 1989). Although Ginsburg makes a reasonable case that some of the views of gender among pro-life and pro-choice proponents in (her ethnographic study of) Fargo, North Dakota, have similarities, I think she overinterprets in two ways. First, the abortion debate is very much nationalized, so that, for example, militant activists (especially within Operation Rescue and like-minded groups) may travel great distances to participate in protests. Thus the moderation that may arise in the case of opposing activists in the same small city may not generalize to the national debate well. (On the nationalization of the debate see, e.g., Jongho Roh and Donald P. Haider-Markel, "All Politics Is Not Local: National Forces in State Abortion Initiatives," *Social Science Quarterly* 84[2003]:15–31.) Second, Ginsburg's argument on the central point of what the two sides share is theoretically too ambiguous to be meaningful. That is, Ginsburg argues that what pro-life and pro-choice advocates have in common is an emphasis on "nurturance." But her definition of what constitutes nurturance includes nurturance of other people and of oneself. It is so conceptually broad that it obscures that for both sides of activists (but not necessarily for the general population), how one views the legal and moral status of abortion is an enormous divide. For instance, the pro-life side would condemn the value of "nurturance" that does not define fetuses as persons or that can emphasize self-nurturance to the point of justifying abortion.