

— LETTERS
on LIBERTY



**ABORTION AND THE FREEDOM
TO FORGE OUR OWN FATE**

Ann Furedi

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What are Letters on Liberty?

It's not always easy to defend freedom. Public life may have been locked down recently, but it has been in bad health for some time.

Open debate has been suffocated by today's censorious climate and there is little cultural support for freedom as a foundational value. What we need is rowdy, good-natured disagreement and people prepared to experiment with what freedom might mean today.

We stand on the shoulders of giants, but we shouldn't be complacent. We can't simply rely on the thinkers of the past to work out what liberty means today, and how to argue for it.

Drawing on the tradition of radical pamphlets from the seventeenth century onwards - designed to be argued over in the pub as much as parliament - *Letters on Liberty* promises to make you think twice. Each *Letter* stakes a claim for how to forge a freer society in the here and now.

We hope that, armed with these *Letters*, you take on the challenge of fighting for liberty.

Academy of Ideas team

ABORTION AND THE FREEDOM TO FORGE OUR OWN FATE

Debates about abortion tend to focus on the fetus; they consider when human life in the womb begins - or perhaps when it begins to matter, legally and morally. In this *Letter*, I want to consider a different human life - that of the woman. Because however we think about the fetus or embryo, surely no one can reasonably insist that when a woman becomes pregnant, she should lose the value and dignity that she had before. Part of that dignity is the right to make private decisions for herself.

The future of a woman's pregnancy should be for her alone to decide, and this decision ought to be regarded as personal and private. The laws that govern abortion should pertain only to other approximate clinical procedures, and they should be proportionate to the clinical risks she might face. The substantive matters that relate to abortion are moral matters that draw on how a woman considers, weighs and balances her life, and the life in her womb.

A pregnant woman is suddenly faced with the question of her own autonomy, and who she will or will not become. Who should decide the course her life will take? And where should the power of the state

stop in those decisions? If we believe in freedom, the answer is clear - only a woman can take charge of her own private decisions, whether to become a mother or not. To interfere would be to violate the privacy of her conscience and her right to self-determination.

Abortion is a fact of life

Legal, safe abortion is now provided in almost every modern Western democracy, at least in the early months of pregnancy. With a few notable exceptions, such as Poland, it has been incorporated into healthcare. Even the Republic of Ireland, where Catholicism was a state religion, accepted abortion in 2018. And in many countries where the laws appear strict, women access the procedure as part of their healthcare. Hungary, for example, prohibits abortion in its constitution, but doctors offer it in hospitals. In the UK, although the law is 'on paper' one of the most restrictive, in practice it is available on request and funded by the state.

Abortion is ubiquitous because even most of those who believe it is morally wrong accept that it is essential for the life we now live. Over the course of the past century, the world changed for women - bringing them into the public domain of education,

wage-labour and political life. By the dawn of the second millennium, we were not just attending universities, but teaching at them; not just working in businesses, but running them; not just voting, but elected as national leaders. Changes in our relation to family life have underpinned all of this. Today, we expect to combine the responsibilities of family life with responsibilities outside the home. We expect to be able to decide whether we have children - and if so, when and with whom.

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We are expected, not just to plan our families but to 'prepare for pregnancy' to maximise the health and wellbeing of our babies. We are expected to control the size of our family to that which we can support. Unless we commit to chastity, these aims require birth control. Ways to prevent pregnancy - contraception - have never been more effective, nor more available. But, alone, they are insufficient. Sometimes contraception fails; sometimes we fail to use it. Sometimes life changes so that a planned and wanted pregnancy becoming unbearable. Since contraception alone provides insufficient control, abortion (the termination of an existing pregnancy)

has become the socially acceptable 'back-up plan'. In societies where around one in three women choose to terminate a pregnancyⁱ, abortion is increasingly seen as normal.

This is not to say that there is no opposition. Protests at clinics continue, and abortion still draws disapproval and stigma. However, the principle of ending a pregnancy has become, for the most part, acceptable. Even in the US, where individual states are newly able to impose severe restrictions, even the most conservative have acknowledged that abortion should be permissible - up to a point. Restrictions such as those that prohibit termination after the detection of a heartbeat may be too early for a meaningful service to be provided, but they do not forbid abortion in the earliest stages of a pregnancy. It begs the question why, when these bills are justified to honour the sanctity of life in the womb, that sanctity is dependent on functioning ultrasound? Could it be a recognition that few people, in good faith, believe that abortion is *never* necessary?

Abortion is about women's autonomy

Today, there is no medical argument against abortion. It is clearly safe - indeed safer than continuing the pregnancy to childbirth. If doctors issued evidence-based advice to pregnant women solely focused on risk, they would invariably advise an early abortion. But then, our decisions about whether to have, or not to have a child have never been based on the clinical risk to ourselves. We don't see pregnancy as simply a risky condition to be cured. The decision to have a child or end a pregnancy draws on so much more - this is why the authority to decide about the future of a woman's pregnancy must rest with her.

It goes beyond matters of medicine, law or public opinion; a woman's decision about pregnancy is a decision about who she is and who she will be. It is an expression of her judgement about what is right and good for her, for her existing and future family and all those she is connected to.

Sometimes, abortion is presented as an essential right for women because birth control is vital to underpin our social equality. And so it is, as I explore in my book *The Moral Case for Abortion: A defence of reproductive choice*. But in this *Letter*, I want to argue that it is even

more than that - it is about what it means to be a free individual.

Who decides?

It makes sense to think of abortion as essentially a woman's choice, even without engaging with thinking deeper than everyday practicalities. Much of the time - unless we are pregnant - we consider abortion as an abstraction. We debate questions such as 'do you agree that abortion is a woman's right?' or 'do you support the right to life of the unborn child?'. These are good questions for a philosophical or political debate. We can apply deductive reasoning and analytical logic, and even construct sophisticated thought experiments to reach conclusions that can be applied consistently in other similar problems.

Real life, however, is more complicated than abstract philosophy. In our daily existence we make decisions in a world that is not black or white or even made of shades of grey. Instead, our personal choices occur in and against a multi-shaded melange of intersecting thoughts, feelings and sentiments. Choices are nuanced and sometimes contradictory. Decisions can seem so complicated and overlaid with feelings that

we can find ourselves lacking the facility to explain them even to those we love.

An external person can tell a woman if a procedure is safe from a medical perspective, but only the woman can know if it is the right (as in correct) solution to her problem, or the right (as in morally good) choice. Philosophy can consider abortion in the abstract, but abortions do not take place in the abstract. The decision to have one is specific and contextual. It may be 'wrong', but at the same time 'the right thing to do'.

When we make moral choices for ourselves our lives are enriched by being in accordance with our own values.

Since the pregnant woman will be more affected by the outcome than anyone else, it seems just and proper that she should have the freedom to make it. Indeed, perhaps she has the responsibility to make it. Sometimes outsourcing a decision - perhaps to a doctor, a therapist, a priest or an ethics committee - seems easier. But decisions of morality and conscience, that shape who we are, need to be faced and owned by people who aspire to freedom. And if we respect their freedom, we must allow them to take these decisions.

Three centuries ago, Immanuel Kant - with abortion certainly far from his mind - considered the importance of the question of 'who decides?' when he deployed the concept of autonomy as the foundation for human dignity. In his 1785 work *Groundwork of the Metaphysic of Morals*, he explored how only personal decisions give our actions value.ⁱⁱ If the course of action you take is something someone else has decided, it is merely functional: we are just following orders and are stripped of moral integrity. Conversely, when we make moral choices for ourselves our lives are enriched by being in accordance with our own values. Using this idea, it then follows that in stripping a woman of the moral responsibility of choice about her pregnancy, we strip her of her dignity as a human being.

Where the state stops

This personal responsibility for deciding on abortion free from state governance flows from beyond the consideration of women's equality (although perhaps that alone should be sufficient to make us take note). What is 'personal', and therefore for us to decide for ourselves, and what is 'public', and so a matter for social regulation, is at the heart of the relationship between freedom and democracy.

More than 2,500 years ago, in ancient Greece, the politician Pericles spoke of the importance of a 'spirit of reverence' for the public laws, while at the same time arguing that 'we are thus unconstrained in our private business'. Traditionally, the family came to be seen as the seat of that private business - that area of existence in which our lives can be lived without regulation. In recent decades, many precedents have been established that undermine this distinction - from requirements on how children are educated, to restrictions on how they are disciplined. But in Western democracies, the state has typically stopped short of interfering in matters pertaining to reproduction.

Our capacity for autonomy is as important as our DNA in making us human.

It is in the US, paradoxically a country where abortion services are currently under threat, that the principles of privacy have been expressed most elegantly regarding birth control. Fifty years ago, in a legal opinion relating to the sale of contraceptives in the case of *Eisenstadt vs Baird*, Justice Brennan's opinion explained it like this:

If the right of privacy means anything, it is the right of the individual... to be free from government intervention so fundamentally affecting a person as to whether to beget a child.^{xiii}

To state baldly that the control of reproductive decisions - including birth control - should be a matter for the state, seems unimaginable in any society that values freedom. And yet that is what state control of abortion does. In these circumstances, abortion becomes a matter of social policy, which detaches it from the world of private choice and moral context. To deny a woman the determining decision about her own childbearing is to deny her two freedoms of unparalleled importance: the freedom to have control of her own body, and the freedom to follow her own values and act on her own conscience.

Conscience and self-determination

The philosophical and moral foundation for reproductive choice stems from the principle of autonomy or self-determination. Support for a woman's choice about her pregnancy should come from the same place as support for other personal and private freedoms - particularly the freedoms of belief and conscience, since they inform each woman's decision. The right to choose our own life course, to

work out what we believe is right and wrong, to frame our values privately for ourselves and live according to the dictates of our own consciences, is a unique and wonderful human project.

The English philosopher John Stuart Mill explains this process of how deciding what we want can shape our character:

'The human faculties of perception, judgment, discriminative feeling, mental activity and even moral preference, are exercised only in making a choice.'^{iv}

This sense of how our choices make ourselves found its most significant expression in the writings of French existentialist Jean-Paul Sartre, for whom our decision-making capacity mattered more than anything. For Sartre and his colleagues, these moral questions could only be answered by people individually, in their approach to the choices in front of them and by the decisions they took. To him, if people did not recognise that they themselves were the source of their values, they could not recognise themselves as the moral agents that they were.^v

Our capacity for autonomy is as important as our DNA in making us human. Choice is not simply about making a decision that is right for us, it also serves as a vehicle through which we cultivate our capacity for

self-consciousness, self-awareness and self-determining behaviour. The development of these capacities is integral to the emergence of the unique qualities that distinguish humans from all other beings. We have ambitions about the lives we want to live, and we expect to be able to at least try to make them happen.

We write the story of our life as we live it, and the decisions we reach do not just produce the chosen 'outcome', they shape us and those around us.

This seems particularly true when we consider how we 'plan' our families. We have a vision of our future selves as we grow up. Will we have children? If so, when, and with whom? We have a sense of when might be the right time, or the wrong time - the right or the wrong circumstances.

Law professor Emily Jackson describes the way we act on these decisions as 'writing our own biography'.^{vi} We are, no doubt, all influenced by the circumstances we find ourselves in - our class, ethnicity, gender and the values and beliefs of the community into which we are born. These circumstances intersect with and influence everything about human life. But they do not dictate the story of a person's life. Different people, from the same background, faced with the

same circumstances, respond in different ways. A person's life course cannot be drafted in advance - not even by them. We write the story of our life as we live it, and the decisions we reach do not just produce the chosen 'outcome', they shape us and those around us.

Freedom is a responsibility

There is no clearer illustration of the way choice matters than the consequences of a woman's decision about her pregnancy. When a woman knows that she is pregnant, she stands at a fork in the road of her life's path. If she follows one route and allows her pregnancy to continue, she will become a mother, perhaps for the first time, perhaps again. She will extend her family, with all the consequences that follow from that. If she follows the other route and ends her pregnancy, consequences will also follow. The impact of her decision is not just about the birth (or not) of a baby. The option she chooses will almost certainly have a profound effect on the lives and relationships of those around her.

If she chooses to continue her pregnancy, the man with whom she has conceived becomes a father, with all the consequential decisions that this brings to his life. Her parents gain a grandchild. All the woman's

familial relatives are cast in new roles, whether or not they choose to assume involvement or responsibility in raising the new life. As a baby's mother, a woman may need to redefine her role in relation to paid work - she may now need employment, or conversely to scale down her employment. She may find that her friendships change; she may develop new links within her community and perhaps relinquish others.

Making these decisions, and being responsible for them, changes not only the woman's circumstances but the woman herself. Her choice will, in some essential way, cast her as a different person.

For a woman, to know that she has decided to bear a child is a very different thing than to know that she has decided against it. And, importantly, for her to know that she has made this choice herself is significantly different to knowing that she was forced to accept her lot. It matters to all of us when decisions are of our own making. Only when a woman can make a choice, can she be truly responsible for its outcome.

It is for each one of us to decide what we think personally about abortion, and whether we might one day take that decision for ourselves. How we judge others for what we consider to be the rightness or wrongness of their decisions is also a matter personal

to each of us. But to prevent someone from exercising their own choice, in a personal and private matter, is to strip them of their dignity and their humanity.

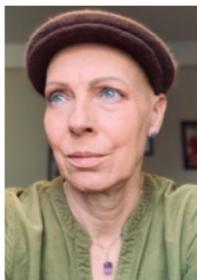
The private world, where we subject ourselves to our own personal judgement, is too precious to compromise. We cannot appreciate democracy without an understanding of the separateness of the private world from public life. Most importantly, we cannot respect the principles of freedom without acknowledging the freedom of reproductive choice.

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