

Chapter Nine

Reproductive Rights

From Sex Education and Venereal Disease to Birth Control and Abortion

When the Nineteenth Amendment was adopted in 1920, most women (and many men) knew very little about their bodies and reproduction—and patriarchal leaders wanted to keep it that way. Despite the radical stances on open marriage and free love advocated by Frances Wright, Victoria Woodhull, and others during the fight for the vote, women's reproductive and sexual empowerment would be one of the key battlegrounds of the twentieth century.

Sex Education, Venereal Disease, and Birth Control

Congress had passed what was known as the Comstock Law in 1873, which forbade the distribution of obscene material in the U.S. mail—and the law defined information about preventing pregnancy as inherently obscene. In a time when postal mail was virtually the only form of communication, moralistic zealot Anthony Comstock won a special appointment as postal inspector. This allowed him to censor sex-education materials, and even after his 1915 death, postal officials continued to harass those who wanted to disseminate reproductive information. In his advocacy of what he saw as a crusade against pornography, Comstock was proud to claim that he had driven at least 15 people to suicide.

One result of the public's biological ignorance was huge rates of venereal diseases, and countless women died without understanding the cause of their illness. It was not preventing pregnancy, but instead preventing women's deaths from venereal diseases that first got Margaret Sanger into trouble with the law. When she wrote about syphilis in a progressive magazine in 1913, she was threatened with arrest and fled to Europe. There, she learned about the fledgling birth control movement. Meanwhile, Mary Ware Dennett ran the nascent National Birth Control League and published a booklet that she had written for her sons, *The Sex Side of Life*. Even though the *Medical Review of Reviews* wrote approvingly of Dennett's work in 1918, copies routinely were confiscated. Both Dennett and Sanger would battle postal authorities for many years.

Having returned from Europe, Sanger joined her sister, Ethel Byrne, in opening the nation's first birth control clinic in October 1916. In a blue-collar



Women's vote and sex-education advocate Mary Ware Dennett at a suffrage rally in 1913.

section of Brooklyn, it aimed to fit women with diaphragms that Sanger smuggled in from Holland. Both Sanger and Byrne were trained nurses whose experience showed them the damage done to women's bodies with an excessive number of pregnancies—and that others agreed was clear in the fact that almost five hundred women visited the clinic before police closed it down ten days later. Charged with creating a public nuisance, the sisters spent 30 days in jail.

As was the case with the women who were jailed because they wanted to vote, the authorities may have won the battle but lost the war. The issue began to be discussed, and some newspapers wrote empathetically of these well-intended, middle-class women who were imprisoned for sharing their professional knowledge with needy women. The majority of the public, however, long would associate any kind of contraception with prostitution, and the sisters' trial by an all-male jury resulted in a verdict of guilty. They won a partial victory in 1918 when an appeals court determined that physicians, but not birth-control advocates, could give advice on preventing venereal disease.

For decades thereafter, condoms and similar items were labeled “for the prevention of disease only”—while millions of Americans, mostly male, actually bought them to prevent pregnancy.

Both sex education and contraception remained so much a taboo that even the most radical of suffragists steered clear of the issues. In 1921, Mary Ware Dennett thought that she was scheduled to speak to the annual convention of the National Woman’s Party, and when she saw that she had been omitted from the printed program, assumed that this was merely a clerical error. Instead, the NWP had cancelled her. Alice Paul’s secretary explained to Dennett that she was “too controversial” and that there was “so much difference of opinion among our most valued members.” Carrie Chapman Catt had similarly rejected Sanger’s outreach in 1920, saying not only that Sanger’s reputation for multiple lovers would damage the final push for ratification of the amendment, but also that her ideas on sexual liberation could lead instead to sexual exploitation.

Margaret Sanger and Mary Ware Dennett—both of them New Yorkers who had three children—increasingly went their separate ways after Sanger divorced and then married a wealthy man in 1922. In fact, in 1921, Sanger established the American Birth Control League—from which Planned Parenthood was formed in the 1940s. Sanger’s husband not only agreed to a sexually open marriage, but also underwrote her new Birth Control Clinical Research Bureau in Manhattan. Because of the 1918 court decision that allowed doctors to respond to queries about contraception, Sanger became more and more associated with the medical profession instead of the feminist movement. In *Woman and the New Race* (1920), she even advocated birth control use in eugenics and associated herself with those who stressed overpopulation. Dennett, meanwhile, emphasized the need for sex education and a woman’s right to control her own body.

Dennett’s *Birth Control Laws* (1926) could have been a good argument for the Equal Rights Amendment (ERA), as it demonstrated disparities between states, but ERA supporters did not want to touch this sexual controversy (see Chapter Eleven). The post office continued to hound Dennett, and free speech became her greatest cause. Even though her *Sex Side of Life* was published in 1918, she was indicted for its distribution in 1928 and convicted in a sensational trial the next year. Just as with the vote, however, the opponents may have done her cause more good than harm. Newspapers throughout the country defended Dennett’s First Amendment rights, and an appeals court

overturned the conviction in 1930. She celebrated with the publication of *Who's Obscene?* (1930).

In the long run, legal reforms may not be as important as people's inchoate practices, and after the Great Depression set in during the 1930s, the nation's birth rate plunged to its lowest point ever. It would soar again toward the end of and after World War II in the 1940s, demonstrating that millions of Americans were exercising various forms of birth control. Indeed, the military probably did more than any other institution to provide sex education and encourage the use of contraception. With a million cases of just syphilis annually, military commanders were very concerned about venereal disease, especially overseas. In mandated sex-education classes, troops saw graphic movies portraying the effects of these diseases. The U.S. Public Health Service developed a sex-education campaign with a surprising number of candid posters on the subject. Just a few years earlier, these images would have been confiscated as obscene.

Most of the graphics were placed where men, not women, would see them, but protection of innocent wives and children was a recurrent theme in their images. The military gave more than mere advice, too, and soldiers in Hawaii stood in long lines for free condoms before they shipped out to the Pacific. Although India never was a serious war front, American men there used condoms at a rate of four per man per month—and doctors considered that supply insufficient. Females in the military got less lurid education, but their awareness increased—and of course, members of the Army and the Navy Nurse Corps had been aware all along.

That filtered back home, and lawmakers who never would accept sex education in the schools found ways to address venereal disease circuitously. In 1943, midway through the war, Alabama became the first state to require blood testing for syphilis as a part of the process for a marriage license. Others quickly followed—but state laws varied widely, with some requiring blood tests for grooms but not brides, and many requiring only an official caution. Oklahoma was the only state that refused to grant a license if an applicant proved to have venereal disease.

The war, ironically, probably did more to change attitudes on sex education and contraception than all of the work of advocates. The military not only condoned the use of condoms for what would clearly be extramarital sex, but even compelled that use. This was an entirely new cultural idea for many soldiers, especially young men from unsophisticated areas. Contraception of

any sort was not easily obtainable, and some heavily Catholic states banned the sale of any device to prevent pregnancy or venereal disease. The military and most clergymen were complete opposites on this: his superior officers told the soldier he must use condoms, while the Catholic Church, especially, told him that he must not use them, even within marriage.

Mary Ware Dennett died in 1947, two years after the war ended, and Margaret Sanger would forever replace her as the hero of the birth control movement. While Sanger concentrated on public relations and fundraising, Dr. Hannah Stone and a staff of mostly female physicians fulfilled the court's order to limit contraceptive advice to physicians. Sanger's clinic stayed open, but the importation of diaphragms was another long struggle in the courts. A 1936 decision, however, effectively ruled that birth control and obscenity were not synonymous, and bans on obscenity did not necessarily imply bans on contraception. After that, progressive physicians were able to import contraceptive materials and prescribe their use.

Sanger, along with other activists, transformed the American Birth Control League into the Planned Parenthood Federation of America in 1942, a PR move that enhanced its reputation with middle-class women who were offended by the original name. Some wealthy women, including Katharine Houghton Hepburn, the mother of actress Katherine Hepburn, endowed Sanger's work. Sanger and her husband moved to Arizona in 1937, but she never fully retired. She formed International Planned Parenthood in 1952 and raised money to fund the research that allowed the first birth control pills to go on the market in 1960. When she died a mere six years later at age 87, millions of young women were taking the pill.

Yet some state laws remained regressive, including in heavily Catholic states in the Northeast. Connecticut insisted that pharmacists could not sell contraception to anyone without proof of marriage, and Estelle Griswold bravely challenged it. The head of the state's birth control forces, she opened a clinic designed to bring about her arrest for violating the ban on sales to any but married people. The case went to the U.S. Supreme Court, which ruled in *Griswold v. Connecticut* (1965) that such bans violated constitutional rights to privacy, as well as religious freedom.

Massachusetts was the most illiberal state in the nation on this issue, as its attorney general prosecuted activist Bill Baird for his attempt to purchase birth control pills without evidence of his married state. In *Eisenstadt v. Baird* (1972),

the U.S. Supreme Court expanded on its Connecticut decision, saying that the marital status of the purchaser should have no effect on the filling of a legal prescription. With that decision, the long fight over contraception began to end. The Roman Catholic Church continues to view the prevention of pregnancy as a sin, but many studies have shown that Catholic women use birth control at the same rate as other women.

Condoms that would have brought an arrest earlier in the century are now available on grocery-store shelves, as empowered women believe that they have a right to decide for themselves whether or not to become pregnant. The last major judicial challenge to state prohibitions of birth control, *Eisenstadt v. Baird*, was on March 22, 1972—and, less than a year later on January 22, the Supreme Court issued the most important of all decisions on reproductive rights: *Roe v. Wade* (1973).

Abortion

In medical terminology, “abortion” refers to any termination of pregnancy before the fetus is capable of life on its own, with “spontaneous abortion” used as the term for what the public generally calls “miscarriage,” and “induced abortion” for the deliberate act. With or without the aid and/or coercion of men, women have terminated pregnancies since ancient times. They have used a number of methods, including violent exercise and deliberate falls, eating and drinking herbal potions to induce menstruation, wrapping themselves tightly in abdominal tourniquets designed to expel the fetus, and inserting any number of instruments into the cervix to induce labor. Knitting needles and wire coat hangers have become the symbolic representatives of such vaginal intrusions, but many other items and purgatives, including turpentine, lye, and castor oil, have been used for centuries. Needless to say, millions of women died.

In the early United States, very little law spoke to the subject, and the evidence is that, from colonial times through most of the nineteenth century, women aborted themselves without feeling that they had done a moral or legal wrong; birth control was considered a greater offense. It was only with the growth of organized medicine that state laws on abortion began to be adopted, usually because of lobbying by physicians. While their arguments were made in terms of protecting patients, it also was true that restrictive legislation seriously