

IDEOGRAPHIC USAGE OF “CHOICE” IN CONTEMPORARY ABORTION  
RHETORIC

By

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B.A., University of Vermont, 2001

A THESIS

Submitted in partial fulfillment of the requirements for the degree

MASTER OF ARTS

Department of Speech Communication Theater and Dance  
College of Arts And Sciences

KANSAS STATE UNIVERSITY  
Manhattan, Kansas

2008

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## Abstract

[This work explores the emergence and evolution of the rhetoric choice rhetoric as it pertains to contemporary American abortion politics. <Choice> is explored from an ideographic perspective, borrowing from the theoretical framework for ideographic rhetorical criticism established by Michael Calvin McGee. The analysis begins with a diachronic analysis of the emergence of the ideograph of <choice> within the law with an investigation of the written decisions in four Supreme Court cases central to the construction of the right to choose: *Roe v. Wade* (1973), *Maher v. Roe* (1977), *Harris v. McRae* (1980), and *Webster v. Reproductive Health Services* (1989). This investigation reveals a synchronic relationship between <choice> and another higher order ideograph, <liberty>. The criticism continues with an investigation of the usage of <choice> by pro-choice advocates in two documents published by NARAL Pro-Choice America, *Choices: Women Speak About Abortion* is a collection of women's narratives about their experiences obtaining an abortion, and *Breaking Barriers*, a guide for the development and implementation of proactive policy campaigns for pro-choice advocates. McGee's method is employed to investigate the ideographic usage of <choice> within these documents, revealing the ideographic abstraction that associates the alleged idea content of ideographs. This ideographic analysis reveals the inability of <choice> to live up to its alleged idea content as a result of the limitations inherent in the grounding of <choice> within the higher order ideograph of <liberty> and the impact of these limitations on particular populations, mainly indigent women in the United States. ]

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## **CHAPTER 1 - Foundations of choice**

I grew up in an adamantly pro-choice household. When I was as young as 7 years old, I can remember tagging along with my mother to pro-choice rallies at the state house. My mother would keep the posters and signs from rallies and hang them all over the house. For years, our living room was adorned with signs that read "keep abortion legal." While I grew up in a very activist household, I never became an abortion activist. I knew that there was a time when abortion had been illegal, but I felt like my generation was growing up in "the era of choice" in which women were free to make choices about when and even how to have children. While I always voted for pro-choice candidates and occasionally argued with friends who voted for candidates because of their pro-life stance, I was never that interested in being involved with pro-choice activism.

As I grew up and started to learn about feminism and feminist theory, I began to think that feminism was necessarily divided, and that the basic foundational feminist theories I had read were essentialist meaning that most feminist theories seemed to assume that there were essential feminine characteristics shared by all women. I came to think that these theories lacked recognition of differences among and between different women. In other words, I came to think of feminism as fundamentally flawed because it represents the experiences of privileged white women. I began to seek theory that could account for the experiences of all women. I wanted to be a feminist, but I didn't want to align with any theory or idea that privileged particular experiences at the exclusion of others.

My idea that feminism was a fractionalized and ineffective ideology was blown to pieces in Washington D.C. on April 24th, 2004. I knew that the March for Women's lives was on this particular day, but I had just finished hosting a conference for over 500 people over the previous three days and I was tired. As I drove home from the closing ceremony of the conference I ended up stuck in traffic that was backed up because of the march. Realizing that I wasn't going anywhere in the car, I found a parking spot and decided to check out the pro-choice march. It was a spectacle. There were all sorts of people marching, wearing colorful clothes and carrying signs of all shapes and sizes.



There were huge puppets, a group of women all wearing pink slips (the kind that go underneath a dress) handing out flyers that said "Pink Slip Bush". The creativity of political expression was extremely intriguing. I was most amazed by the diversity of those marching, holding signs while chanting "this is what a feminist looks like". Marching in front of me was a group representing an organization of women of color from Boston, I saw the "raging grannies" as we marched, many people were carrying signs (shown above in green) exclaiming "another \_\_\_\_\_ for choice". I could see women in the distance who may or may not have known that they were marching next to each other holding these signs where they had filled in the blank. One read "Another Catholic for Choice" while the other read "Another Muslim for Choice". I couldn't believe that all of these different types of women from all different backgrounds were all marching together

around this notion of <choice>. It didn't necessarily surprise me that women with such different backgrounds identified themselves as standing for <choice>, but it did call into question my previous belief that feminists were divided and fractured along identity lines. For me, The March for Women's Lives represented the actual practice of diverse women setting aside their identity differences for a common cause, so common that even the most disparate of women could come together to decry the identity construct of feminism by chanting "this is what a feminist looks like" as if to shatter the notion that a feminist looks like any one thing.

After the March for Women's Lives, I began to think that maybe abortion was an issue that could unite feminists. I also began to think about what it means to stand for <choice>. I was not particularly educated about the law and where the "right to choose" came from, so I started to research the Pro-Choice Movement. This thesis is a result of that research; it began as an attempt to answer the questions: Where does <choice> come from, what does it mean, and Does <choice> accomplish what it sets out to? Researching the politics of abortion has raised questions about the efficacy of the ideology of <choice>, and it has called into question feminist theorizing about the role of privacy in maintaining women's oppression.

There is little doubt that abortion is one of the most polarizing issues in America, with the "pro-life" movement on one side, declaring that abortion should be restricted and the "pro-choice" movement on the other, demanding the availability of safe abortions. Millions of Americans sit squarely on one side of this issue and for many it is considered a very personal political issue. As a student of rhetoric who investigates the force of language in society, I focus on "not simply the formal and final words of particular

speakers, but the culture of a text – the ideology – that is produced and performed in and through a larger, macro rhetorical process of active intertextualization” (Corbin, 1998 p.17). This ideographic method uncovers the ways in which subtle and benign linguistic choices interact with social and historical contexts to create meaning and inform ideology. Applying this rhetorical perspective to the rhetoric of proponents of the availability of abortion has called into question the use of the term “pro-choice”. As recently as 2003 the National Abortion Rights Action League (NARAL), the largest organization in the US committed to maintaining a woman's right to choose, changed its name to add “Pro Choice America” (naral.org, 2006) to its moniker. It seems nearly impossible these days to support a woman’s right to obtain an abortion and divorce one’s self from being “pro-choice”. This work seeks to explore the ideographic nature of <choice>. This project traces its emergence out of the abortion controversy during the sixties and seventies in an effort to situate <choice> as an American Feminist ideograph contrasted off of the realities of the availability of the “right to choose.” Furthermore, the implications of this ideograph on the continued success of feminist organizations that champion the right to choose are explored in order to evaluate the ability of feminist organizations to achieve their goals.

This project addresses the primary research question: Does the relation between the ideographic status of <choice> to that of privacy provide a productive rhetorical mechanism for ensuring that all women have access to reproductive rights? This question cannot be resolved without laying the foundation for asking the question. Prior to engaging in a rhetorical criticism of the usage of <choice> it is necessary to summarize

theWhat follows here, is a summary of the historical foundations of <choice>, in the context of the emergence American feminist theory.

## **Historical Foundations of <choice>**

Women of the 19<sup>th</sup> and early 20<sup>th</sup> century were awakening to the ways in which the industrial revolution had transferred labor “out of the private home and into the public workplace”(Tong, 1998 p.12). It was undeniable that as men’s labor moved into the public sphere and generated income for the household, women’s roles became relegated to the private sphere. As such, women’s labor became devalued and under the scrutiny of their male heads of household. During the nineteenth century, particularly middle and upper class women became known as “kept women” (12) who were stripped of their decision making ability as the notion of the reasonable man and the emotional women emerged out of prominent scholars of the time like Rousseau (13). As a result women of this time period were denied liberty “because they were not permitted to make their own decisions”(12). Indeed, “gender was an important division in American politics, men and women operated, for the most part, in distinct political subcultures” (Baker p.56); women operated from the domestic sphere while men operated out of the public sphere.

As feminists began to theorize about the relegation of women to the home, the public/private dichotomy was articulated as the primary mechanism for the legal subordination of women. Ferdinand Schoeman argues in his 1992 book, “Privacy and Social Freedom” that “Our institution of privacy keeps women domesticated, isolates, and thus politically and ideologically voiceless” (p.13-14). The belief that the public/private dichotomy subordinates women is shared by many feminist legal scholars who argue that the law codifies this dichotomy and hence women’s powerlessness. Diane Polan argues that “The legal system has also used the public/private dichotomy in another, more subtle fashion that has further reinforced patriarchy. By placing the

operation of the law squarely in the public realm...Thus, the legal system has functioned to legitimate that very distinction” (1990 p.422). Collapsing the public/private dichotomy became the primary goal of feminist theorizing.

As women began to resist the divisions between the public and the private, autonomy and the denial of liberty, their demands reflected particular types of women. Those reflected in feminist demands were women who had experienced this public/private dichotomy through relegation to the home. bell hooks argues that those who view escape from domesticity as the sole precondition for women’s equality clearly speak from a white middle class perspective in which perhaps the only thing holding them back was motherhood and staying home to take care of the family and house. She writes, “Black women would not have said motherhood prevented us from entering the world of paid work because we have always worked” (1984, p.133). Many scholars (hooks, Davis) have argued that early liberal American feminist articulations like the Seneca Falls Convention failed to account for the experiences of women of color, and even go as far as to argue that “the convention rendered black women invisible” (Tong, p. 21). The foundation for modern American feminism is undoubtedly a reflection of women who experience the public/private dichotomy in particular ways.

As the public/private dichotomy came to exemplify the norm of women’s experience in the United States, the public framing of the issue of abortion was undergoing a metamorphosis. Until the 1860’s the term abortion had a meaning synonymous with the term miscarriage (Smith-Rosenberg, p. 219). When states began to pass laws restricting abortion as intentional miscarriage, the language began to change identifying that which was being regulated as “criminal abortion” (p. 219). Until the latter

part of the nineteenth century, there was legal precedent in the United States to support legal abortion, “by 1860, there had been nine state-supreme-court decisions concerning abortion; seven held that abortion before quickening did not constitute a criminal offense” (p. 219). As a result of a vast American Medical Association campaign against the practice of abortion, “by the early 1880’s, most states had enacted harsh anti-abortion laws”(p. 220). Nineteenth century anti abortion activity in the United States culminated in 1873 with the passage of the Comstock Law. This law forbade the use of the U.S. Postal Service in the distribution of “any drug, medicine, or article for abortion or contraceptive purposes, forbade the advertisement of such items through the United States mails, and outlawed their manufacture or sale in the District of Columbia and the Federal Territories” (p. 222). With the advance of the Comstock Law, state restrictions on abortion tightened and for the first time in American history, abortion became a criminal act in many states. In this climate, many states opted to restrict or ban abortion procedures entirely. Many women were unable to obtain safe, legal abortions and the practice of “back alley abortions” was common for a over a century. In 1964, in New York City alone, ten thousand women sought medical treatment for illegal abortions (p. 223).

It is difficult to trace the origins of the term <choice> in relation to abortion. As early as 1969, several groups such as NARAL, the National Organization of Women (NOW) and Zero Population Growth (ZPG), came together to support a demonstration on mothers day called “Children by Choice”. More than one scholar have identified this particular demonstration as the moment in which <choice> came onto the scene as a term used to advance the cause of abortion (Staggenborg, 1991 p. 51; Sollinger, 2001 p. 5).

Condit indicates that <choice> did not achieve ideographic status in the abortion debate until the seventies, “Even in the earliest stages of the controversy, for some activists the rights, freedoms, or choices of women were at issue. Although these voices did not become the most audible ones until the seventies, a public rhetoric gradually developed which framed the controversy as a ‘woman’s choice’” (1990, p. 67). It is likely that the preeminent work documenting the history of the Pro Choice movement is Suzanne Staggenborg’s *The Pro-Choice Movement: Organization and Activism in the Abortion Conflict*. In her telling of the history of the Pro-Choice movement, Staggenborg only discusses the adoption of the terminology of <choice> in a footnote where she asserts that <choice> was a term adopted by the movement after *Roe v. Wade* in response to the emerging Pro-Life movement (1991, p. 188). Prior to the Supreme Court’s 1973 decision, the movement was referred to as the “abortion movement” (p. 188).

Staggenborg (1991) indicates that within the movement, the primary objection levied against “Pro-Choice” language was that prior to *Roe*, one of the initial goals of the movement was to bring abortion into the forefront (p. 188). Howard Moody, a minister at a New York church in the late 1960’s who used to refer women to abortionists pre-*Roe* confirms this, telling of how abortion was a taboo term during that era, so much so, that an important strategy at the time was to “free that word up...to free it from the silence” because “abortion was so underground, so hidden” (Gorney, 1989 p.D1 ). Staggenborg indicates that critics of the term <choice> at the time argued that it was merely another “euphemism” for abortion (p. 188). Ultimately, those in favor of the term <choice> won out because it assisted in constructing an image of a position that was not “pro-abortion” but rather, a position that saw abortion as a <choice> of last resort (p. 188).

In 1973 the United States Supreme Court handed down its landmark decision in *Roe v. Wade* ruling that state restrictions of abortion were unconstitutional, denying a woman's right to privacy. The court's decision in *Roe* is informed by years of case law surrounding the constitutional protection of the right to privacy. In *Roe*, the court cites the 1965 decision in *Griswold v. Connecticut* that the rights of married persons to use contraception is protected under "right of marital privacy which is within the penumbra of specific guarantees of the Bill of Rights." (p.481-86). In *Griswold* the court established that the right to use contraceptives was protected under the due process right to be free from state interference from intrusion into the private lives of individuals (McDonagh, p. 107-8). This right was again confirmed in 1972 in *Eisenstadt v. Baird* where the Supreme Court extended the rights of married couples to use contraception to unmarried individuals. The Ninth Amendment is where the court, in *Griswold v. Connecticut* derived and applied the right to privacy to marital relationships even though the right to privacy is not explicit in the constitution (Hirschenbaum, 2000 p. 329). It is important to note that the right to privacy is not explicitly articulated in the Constitution or the Bill of Rights. Much of the debate about the constitutional basis for the right to Choose arises out of the court's assertion in *Griswold* that privacy is "within the penumbra" of thguarentees in the bill of rights. Many criticize Justice Blackmun's opinion for failing to elaborate "The textual foundations of the privacy right" (Eisgruber, 2001 p.82).

The majority decision in *Roe* was written by Justice Blackmun and provides evidence that the court played a role in establishing the preeminence of the rhetoric of <choice> versus Life in the abortion controversy. In siding with the appellant, the decision states that the Texas statutes "improperly invade a right, said to be possessed by

the pregnant woman, to choose to terminate her pregnancy”(Roe v. Wade, 1973) . Blackmun laboriously outlined the history of abortion jurisprudence and in so doing noting, “the opportunity to make this choice was present in this country well into the 19<sup>th</sup> century” (Roe v. Wade, 1973) in order to establish legal justification for the right to obtain an abortion. Justice Blackmun, may not have been the first to use the rhetoric of <choice> in relation to abortion, but his adherence to <choice> as a means of explaining a woman’s right to privacy codified <choice> as an appropriate justification for abortion and enabled the abortion movement to adopt language already legitimized by its use in the written decision.

Angela Hooten (2005), the Associate Director of Policy and Advocacy at the National Latina Institute for Reproductive Health argues that the court’s reliance on privacy as the right to be free from government interference as the justification for legal abortion is directly related to the movement’s adoption of <choice> as its moniker:

The impact that Roe has had on the reproductive rights movement cannot be understated; Roe has shaped the movement’s focus from both a practical and theoretical standpoint...Textual support for the right to privacy is expressly negative- the right to be free from state interference. The movement has co-opted this language and developed an individual rights framework to guide the theoretical arguments it advances for reproductive rights (p. 62-63)

For Hooten the first theoretical principle derived from Roe by the movement is Choice (2005, p. 63).

Since the 1970’s <choice> has been the primary slogan for those who support the right to obtain an abortion. This is so much the case that it is difficult to think of a term for those who support the right to an abortion other than Pro Choice. Pro Choice is not only the name of a movement, but there are values and ideologies embedded in the notion of <choice>. For example, liberty and control over one’s own destiny are entwined with

<choice>. "The Supreme Court has elevated reproductive liberty to the level of a fundamental right against government interference deserving of the highest judicial scrutiny" (Roberts, 1997, p. 294). <choice> is a word that tangibly describes the desires of women to control their own lives.

Today, <choice> is a prominent feminist ideograph. The right to an abortion has become conflated with the right to Choose and the right to Choose is often credited for the gains of women in the latter half of the twentieth century. Some argue that the advancement of women in the public sphere is directly related to the right to obtain an abortion arguing that "Women's influx into higher education and the professions" (Mentone, 2002 p.2660) is a "result of the Supreme Court's declaration of a constitutional right to an abortion" (2002, p. 2660). Justice Ruth Bader Ginsburg, before joining the Supreme Court asserted that reproductive autonomy was crucial in women's attempts to "participate as men's full partners in the nation's social, political, and economic life" (1985, p. 375). Indeed, many women see anti-choice advocates as threatening "Women's hard-earned status as legal subjects, as citizens, and as individuals in their own right" (Hirschmann, 2003). This right to Choose is solidly built upon adherence to privacy as Kristina Mentone points out:

The privacy argument acknowledges that no woman, regardless of how powerless or powerful she may be, can be forced to have a baby. It protects women who intentionally get pregnant and then change their minds. It protects women who consensually have sex but accidentally get pregnant. It protects women who are pregnant due to rape or coercion. It protects women who are pregnant by men who are willing to support the baby. It protects all women, all the time. (Mentone 2002, p. 2602)

For advocates of the right to privacy encompassing a woman's right to Choose, it is seen as the ultimate protection capable of protecting all women, in any situation. As such, the right to privacy has become a crucial component of modern American women's progress.

Reproductive freedom is central to the feminist agenda, and that freedom is secured through the “right to choose”. There are very few feminist concerns that trump the right to an abortion, the National Organization for Women (NOW) lists abortion as its number one on its web page ([now.org](http://now.org), 2006). NARAL Pro-Choice America, a feminist organization that bills themselves as “leading advocate for privacy and a woman's right to choose” boasts over 1 million members ([nalar.org](http://nalar.org)) and as recently as 2004 staged the largest march on Washington ever with over 1.5 million people marching for their cause.

Since 1973 the court has had to explain and elaborate upon the "textual foundation of the right to privacy" in several cases. These instances in which the Court rearticulates liberty and the right to privacy, and how the right to choose is derived as a privacy right provide an opportunity to explore how <choice> comes to constitute itself.

One of those instances arises out of a piece of legislation that has spurred several challenges in the courts. In 1976 Congress passed the Hyde Amendment (Staggenborg, 1991, p. 81) which banned the use of public funds for the procurement of an abortion. This meant (and continues to mean) that women who depend on the federal government for healthcare do not have access to abortions. The number of people affected by the Hyde Amendment are staggering, this population includes “Native Americans who use the government funded Indian Health Services, federal employees and their dependents, federal prisoners, Peace Corps volunteers, military personnel and their dependents,

teenagers participating in the state Children's Health Insurance Program, and low-income residents of Washington, D.C." as well as women who rely on Medicaid for their healthcare (Sollinger, 2001 p. 109). In the year prior to the passage of the Hyde Amendment the government funded 300,000 abortions, compared to a mere 300 government funded abortions under the Hyde Amendment in 1992 (Roberts, 1997 p. 231). The Hyde amendment and state funding bans like it have repeatedly been upheld in the courts, and in each instance the court asserts limitations of the right to privacy. First in *Maier v. Roe* (1977), and then in *Webster v. Reproductive Health Services* (1989). The court has reasserted its justification for its decision in *Roe* most vehemently in *Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992). In this case the court ruled on the constitutionality of four regulations the state of Pennsylvania had placed upon abortions: the requirement of parental and/or spousal notification, an informed consent provision, and that clinics report to the state the medical records of their patients. More recently the Supreme Court has articulated its interpretation of a woman's right to choose in *Gonzales v. Carhart* (2007) in which the Court weighed in on the constitutionality of Congressional Legislation that regulates specific abortion procedures in latter trimester abortions.

In each instance of the Court's hearing and deciding these abortion cases, the Pro-Choice community has responded, in many cases compiling amicus briefs to submit to the Court, providing tool-kits for local activists about how to effectively combat restrictions on the Right to Choose. These have all provided opportunities for the movement to articulate its interpretation of the Right to Choose. These texts provide ample opportunity to rhetorically analyze the notion of <choice>.

## **Feminism, Abortion and Rhetorical Studies**

Many rhetorical scholars approach their research through a feminist lens. Most of these scholars do so via the application of feminist rhetorical criticism. Feminist rhetorical critics analyze rhetoric “to discover how the rhetorical construction of gender is used as a means for oppression and how that process can be challenged and resisted” (Foss, 1996 p. 168). This is accomplished through analyzing the ways in which gender roles are depicted within particular artifacts that are not routinely consider to be feminist rhetorics. Feminist rhetorical critics usually engage an artifact that is seen as outside of the scope of feminist rhetoric, like a sport, movie or television show in order to illustrate the ways in which the artifact contributes to particular gender constructions. However, the feminist movement has produced a plethora of artifacts that are of less concern to feminist rhetorical critics because these artifacts are already injected with feminist undertones from their inception.

More work has been done about feminist artifacts by communication scholars who focus their research on social movements (or the rhetoric of protest) than rhetorical critics. These scholars like Karlyn Kohrs Campbell argue that feminist rhetoric, which she coins “the rhetoric of women’s liberation” should not be lumped into social movement rhetoric, rather that the rhetorical study of feminism requires its own field of study (Campbell, 1973 p. 208).

More specifically, some rhetorical critics have engaged in research about the rhetoric of abortion. Those who do so tend to apply a particular form of criticism to a particular instance of Pro-Choice rhetoric. In *Consciousness-raising as collective rhetoric: the articulation of experience in the Redstockings' abortion speak-out of 1969*, a 2005 article by Tasha Dubriwny shows how the articulation of individual experience in

this particular speak out shed insight upon the potential for the expression individual experience can contribute to the development of a collective rhetoric, expanding upon previous theories of collective rhetoric. In another rhetorical work on abortion, *In Vilification and Social Movements: A Case Study of Pro-Life and Pro-Choice Rhetoric*, a 1989 article by Marsha L. Vanderford, the rhetoric of two local Minnesota organizations are analyzed to explore the utility of enemy construction in the maintenance of social movements.

The most comprehensive work in the field of rhetoric about abortion is Celeste Condit's "Decoding Abortion Rhetoric: Communicating Social Change" in which she provides for an account of the development of both Pro-Choice and Pro-Life rhetoric from. In her rhetorical analysis of abortion rhetoric Condit considers two units of discourse: rhetoric in narrative form, and ideographic forms. In narratives Condit seeks the establishment of myths and characterizations to evaluate the ways in which abortion rhetoric shifts public consciousness. In considering ideographs, Condit explores the extent to which the "political right to abortion required a revision of American ideographic structure" (1990, p. 13) as well as an account of the ideographic justifications for the right to choose.

In writing about abortion Celeste Condit (1990) argues that ideographs are a form of "ultimate term"- special words or phrases that express the public values" (p. 13) and establishes that within the abortion debate, <choice> is the "ideographic representation of women's needs in the polity" (p. 68) because the term was "a direct articulation of material demands faced by women" (p. 68) in the context of increasing biological and economic choices available to women in the middle of the twentieth century (p. 68).

Communication scholars like Condit have done much work to establish that <choice> operates in an ideographic form. This work seeks to extend upon such research to investigate and reveal the social realities surrounding women's right to choose.

This work embarks upon an analysis of <choice> as the ideographic signifier of liberal advocates of a woman's right to obtain an abortion. This project purports to be neither an advocacy nor an opposition to the practice of abortion. Instead, this project will analyze the way in which this legally established right manifests itself ideographically and to expose what it both conceals and reveals. The project proceeds in the following manner.

### **Preview of Chapters**

Chapter two lays out the method used to rhetorically analyze the rhetoric of <choice>. Specifically, Michael Calvin Mcgee's theory of the ideograph is introduced, followed by an articulation of precisely how an ideographic criticism unfolds. The chapter ends with a discussion of the purpose and importance of this particular form of rhetorical criticism.

Chapter three begins the analysis by looking at oral arguments before the supreme court in *Roe v. Wade* (1973), *Maher v. Roe* (1977), *Harris v. McRae*, (1980), and *Webster v. Reproductive Health Services* (1989), to reveal the extent to which the right to choose is embedded in the right to privacy and hence <liberty>. This chapter discusses the implications of embedding the right to choose in privacy and liberty arguing that privacy as enumerated by the supreme court is not capable of ensuring that all women have equal access to the right to an abortion.

Chapter Four reads two documents that represent the ways in which the Pro-Choice movement responds to the ways in which the Court articulates Choice by asserting their own notions of Choice. The first document, *Choices* is a selection of women's stories produced by NARAL Pro-Choice America as the result of a large amicus brief of women's narratives NARAL filed with the supreme court during the Webster v. Reproductive Health Services trial in 1989. This chapter investigates the ways in which real women who have had to decided whether or not to obtain an abortion articulate <choice> in their own lives. The second document is produced by NARAL Pro-Choice America for Pro-Choice Activists who are primarily concerned with issues pertaining to women of color called Breaking Down Barriers. This ninety page action guide for pro-choice activists outlines the major reproductive rights issues facing women of color and serves as a guide for pro-choice community organizing to combat restrictions on abortion at the local level.

Chapter five entails a discussion of this critical reading of the ideograph of choice, Because this work shows the ways in which choice is derived directly from the court's articulation of privacy which, in turn is directly derived from the constitution's articulation of the citizen's liberty interest, this study seeks to contribute to McGee's liberty analysis and to uncover additional ways in which liberty operates to mask precisely what it seeks to bestow.

## **CHAPTER 2 - Ideographic Criticism, revealing the concealed**

In a 1980 *Quarterly Journal of Speech* article, Michael Calvin McGee wrote about the ways in which language contributes to the construction and maintenance of ideologies in societies. He argued that “human beings are conditioned...to a vocabulary of concepts that function as guides, warrants, reasons, or excuses for behavior and belief” (McGee, 1980a, p. 6). For him, “the political language which manifests ideology seems characterized by slogans, a vocabulary of ‘ideographs’” (p. 5). These ideographs are “both units of persuasion and warrants for action and behavior” (Delgado, p. 5) that “exist in real discourse, functioning clearly and evidently as agents of political consciousness” (McGee, 1980a, p. 7) and can be defined as “an ordinary language term found in political discourse. It is a higher order abstraction representing collective commitment to a particular but equivocal and ill-defined normative goal” (p. 15). McGee identifies ideographs as flexible and unstable concepts marked by stable signifiers, for him the ideograph is important for precisely this reason, the signifier is stable while that which is signified is unstable, as such they are “constitutive signs of American sociopolitical community.” (Condit, p. 18).

All political discourse is built upon ideographic foundations,

It is difficult to think of a political argument which is not grounded in the value represented by one or another ideograph...Because of the omnipresence of ideological value commitments at the inventional base of political argumentation, one option always open to advocates of special causes is a direct appeal to ideological abstraction (McGee, 1983, p. 110).

Liberal democracy is founded upon ideological abstractions, McGee spent the bulk of his career studying prominent ideographs that are embedded into our political consciousness

as guiding principles in our democracy such as <liberty> and <the people>. The abstract nature of ideographs contribute to the way that they function in political discourse, “it is a safe bet that the most hostile competing factions will agree on the meaningfulness of such ideographs as 'property,' 'equality,' 'private,' and 'public' ” (1983, p.111). As a result of agreement over abstract ideals, political debates are marked not by the worthiness of particular ideologies, but rather the meaning and definitions of ideographic terms (111).

Some approach ideographic rhetorical criticism through the identification of one particular text, or speech (Delgado, 1999) while others scour series of texts to identify ideographic discourses (Wander). Fernando Delgado analyzes the rhetoric of Fidel Castro through an ideographic lens in order to show how Castro is able to “articulate[s] a new consciousness for Cubans and an attempt to create a new social formation and praxis” (p. 2). Identifying particular texts and analyzing them for ideological underpinnings is a viable method for rhetorical criticism.

In his 1984 essay “The Rhetoric of American Foreign Policy”, Philip Wander analyzes foreign policy rhetoric from three presidents during the cold war. In doing so, Wander is able to identify two ideographs that distinguish cold war foreign policy ideals from those guiding pre WWII foreign policy. Wander sees trends in the discourses that emerge out of the Whitehouse during the Kennedy, Johnson and Nixon administrations that he labels as the ideographs of technocratic realism and prophetic dualism. For Wander, criticism of this sort is part of a larger process of “confronting technique with purpose, euphemism with reality, and silence—the threatened silence of future generations—with speech” (p. 357).

This effort differs from those of Delgado and Wander in important ways. Delgado analyzes the rhetoric of Fidel Castro with a single artifact. Grounding ideographical analysis in a single artifact limits the possibility of uncovering the concrete histories of ideographs that McGee invests with great theoretical value. Wander's analysis is interesting and insightful as to how to engage ideographic criticism, but rather than investigating a text to illuminate the meaning of an ideograph, Wander investigated several texts with the purpose of extracting foreign policy ideographs that were not already apparent before the criticism began. Because Condit has already done much work to establish the ideographic status of <choice>, this ideographic criticism of <choice> does not require the extraction of an ideograph as Wander's does. The ideograph of <choice> is already solidly established which allows this criticism to proceed in teasing out the origins and meanings of <choice>. This is accomplished by identifying and analyzing rhetorical artifacts that have contributed to the development and maintenance of the ideograph of <choice>. Once the ideals that ground the ideograph of <choice> are available, the critic can then compare the ideals it represents with the ideograph's ability to achieve the goals it seeks to --in this case, the ability to provide women with the right to legally terminate a pregnancy.

If feminism is informed by the issue of reproductive autonomy which manifests itself as efforts to maintain the "right to choose" then an ideographic exploration of <choice> will undoubtedly reveal ideologies that are embedded in modern American feminism. For McGee, "The significance of ideographs is in their concrete history as usages, not in their alleged idea content" (McGee, 1980a p. 10). We live in the "era of <choice>" today's young women belong to a generation of women who have never

known the illegality of abortion. The “alleged idea content” that McGee speaks of lies in the notion that abortion is available to all women who “choose” to obtain one. If the importance of an ideograph rests in its “concrete history as usages” as opposed its “alleged idea content” it becomes necessary to explore the reality of the choices women face in attempting to obtain an abortion.

McGee elaborates on what he means by ideograph’s “concrete history as usages”:

These ‘usages’ which we use to carry society within us are ‘material,’ not as a stone or a horse is ‘material,’ but in contrast to a paradigm drawn by idealists in which metaphysical terms, having no empirical referent, are said to have meaning measured by conditions in an imaginary (1980b, p. 45).

An ideograph represents an ideal, imaginary or illusory reality that we strive to obtain. Our lived reality becomes contrasted off of the ideal represented in ideographs. To uncover what an ideograph both conceals and reveals, it is important to ask when, how and why ideographs are asserted rhetorically in particular situations? In his work on Liberty, McGee argues that we respond to our fears by establishing ideographs in which we have “romanticized our own normative commitments, reified them until many are convinced that ‘liberty’ is an objective state or condition which in name only adheres by fiat of definition to Anglo-American political systems” (1980b,p. 45). In doing so we become lulled into believing that political ideology is objective, but McGee reminds us that “‘value-free’ thought is impossible -- or, more accurately, that the illusion of ideology-free thought is as romantically fanciful and false as a fairy tale” (1983, p. 113). The challenge therefore in ideographic criticism is to uncover not only definitional debates, but to contrast the ideal world envisioned through the ideograph off of the ways in which the ideograph’s ideals are manifested in lived reality. In this project, this means

seeking to first identify what the ideal of <choice> means, and then to investigate the ability of women to enact that <choice>.

McGee explains the theoretical structure of ideographs:

In isolation, each ideograph has a history, an etymology, such that current meanings of the term are linked to past usages of it diachronically. The diachronic structure of an ideograph establishes the parameters, the category of its meaning. All ideographs taken together, I suggest, are thought at any specific "moment" to be consonant, related to one another in such a way as to produce unity of commitment in a particular historical context. Each ideograph is thus connected to all others as brain cells are linked by synapses, synchronically in one context at one specific moment (McGee, 1980, p. 16).

Because ideographs have individual etymological histories it becomes necessary to trace their histories, to map their meanings over time. But, alone this is not enough because while ideographs come to constitute meaning in isolation, they are also related to other ideographic notions that vest them with meaning. This is particularly true in looking at ideographs that emerge from constitutional debates. Because <choice> arises from such constitutional debates it is intricately linked to other ideographs, such as <privacy> and <liberty>. For McGee there are three steps in the process of investigating such ideographic origins and meanings that will be employed in this analysis:

(1) The isolation of a society's ideographs, (2) the exposure and analysis of the diachronic structure of every ideograph, and (3) characterization of synchronic relationships among all the ideographs in a particular context (McGee, 1980a p. 16).

This project is an ideographic criticism of the notion of <choice> as it relates to the right of women to obtain abortions. This is accomplished through an excavation of attempts to define <choice> within various artifacts. In order to do this, a wide variety of artifacts have been selected for analysis all of which contribute to the construction and maintenance of the ideograph of <choice>. This criticism will evaluate legal documents

including the texts of legal arguments made before the Supreme Court and a number of the court's written decisions in cases central to abortion jurisprudence. Legal texts are important because constitutional questions are in essence ideological debates. The court must look to the ideographs set forth in the constitution and ask- does this concept <choice> relate to or connect to ideographs enumerated in the constitution? The particular cases analyzed here are, Roe, Maher, Harris and Webster Abortion jurisprudence is marked by hundreds of state and federal court cases that discuss the issue of abortion from many angles such as scientific questions surrounding fetal personhood, the state's interest in potential life, particular limitations states may attempt to impose upon abortion clinics, the legality of demonstrations at clinics, are just a few. The reason these cases are of particular interest to this study are because of their focus on defining and articulating <choice> as a constitutional right. While many of these cases brought multiple questions before the court, particular attention is paid to the individual holdings in decisions in which the right to choose is articulated, defined, and rooted in other higher order ideographs such as <privacy> and <liberty>.

In addition, documents produced by Pro Choice social movement organizations will be analyzed including narratives gathered and published by Pro Choice advocates, and activist training manuals and guides will be analyzed. Two documents have been selected from a plethora of Pro-Choice material. Specifically, *Choices* a collection of narratives published in 1997. The book consists of a preface, introduction, and 12 stories of women who experienced abortion. This document is important because it represents the ways in which women who have exercised the right to choose articulate its meaning and importance. The Second document produced by Pro-Choice advocates is *Breaking*

*Barriers*, a ninety-eight page document produced by NARAL Pro-Choice America in 2006 outlining issues surrounding reproductive rights of particular concern to women of color. Because *Breaking Barriers* is a document targeted at a population, rather than a single issue it addresses several issues. *Breaking Barriers* presents reproductive rights issues pertinent to women of color along with strategies for how to organize what it calls “proactive policy campaigns”, to address these particular issues. As such, *Breaking Barriers* is one of the longest and most diverse collection of problems and strategies for addressing them published by the organization. These documents have been selected because they represent the ways in which pro-choice organizations have picked up upon legal formulations of <choice> and deployed them within their organizations. Pro Choice usages of <choice> are isolated in this study because they represent usages of the ideograph that represent the “alleged idea content”. The rhetoric of Pro-Life organizations are omitted from this study because they do not represent an attempt to promote the ideograph in question, in addition because this study seeks to establish the effectiveness of <choice> in advancing the Pro-Choice agenda, pro-life rhetoric would be outside the scope of this study.

While these texts are long and arduous, the sections for analysis are easily identifiable. In reading the decisions of the Supreme Court, only particular portions of each case directly relate to the way in which choice is constituted, defined, and drawn from higher order ideographs. For instance in *Webster v. Reproductive Health Services*, there are five questions before the court. Only one of those questions concerns the scope of the right to choose. Analyzing the Court’s rhetoric regarding fetal viability does not yield any insight into the constitutional basis for <choice>. The relevant portions of the

cases are easily identifiable in order to expedite analysis. The only document analyzed here that is not available in an electronic format is *Choices*. This document is an easy read, and while many of the stories articulate choice, many do not. Each story is not analyzed in this study; only those which attempt to define, and constitute <choice>. Finally, while *Breaking Barriers* is a large document (98 pages), searching the document electronically easily narrowed down its usage of <choice> to less than a dozen instances. Those instances are the focus of this analysis.

In the process of analyzing these artifacts, special attention will be paid to the ways in which <choice> is characterized and defined as a stand alone right. Frequently, Pro Choice advocates fail to illustrate a concrete meaning of <choice>. In order to analyze the ways in which <choice> functions and is defined in lieu of concrete definitions, articulations of <choice> will need to be contextually extracted from the text because “one cannot strip rhetoric of its situation. We must see the document in its context as an intended instrument of persuasion” (McGee, 1980b, p. 31).

In enacting this brand of ideographic rhetorical criticism each artifact will initially be read with an eye for an understanding of <choice> as an ideograph in its own right followed by an analysis of how <choice> comes to be understood over time, does its original idea content stand muster through its usages over time? In other words, is such an ideograph capable of fulfilling the normative goals it has come to represent? But most importantly, it becomes necessary to understand the connections between <choice> and other higher order ideographs. It is particularly important to analyze these connections if one is to study the synchronic relationships that exist between ideographs. Does the foundation of <choice> in these other ideographs vest it with a greater capacity to fulfill

its alleged idea content, or do these connections provide limitations upon the ability of <choice> to accomplish what it sets out to?

Sonja Foss articulates ideographic criticism as a form of ideological criticism in her book “Rhetorical Criticism” she articulates the importance of this form of criticism:

The primary goal of the ideological critic is to discover and make visible the dominant ideology or ideologies embedded in an artifact and the ideologies that are being muted in it. Critic who discovers that the dominant ideology revealed in an artifact suppresses the voices of important interests or groups seeks to explicate the role of communication in creating and sustaining the suppression and to give voice to those interests. The ultimate aim of the ideological criticism as a result, is the emancipation of human potential that is being thwarted by an existing ideology or ideologies. (1996, p. 295-6)

As such, it is not enough to extract definitional understandings of ideographs from various artifacts, but ideographic criticism must go further to uncover what or who is excluded from the assertion of a particular meaning. When ideologies are asserted in an attempt to reflect social values, they simultaneously contribute to the identity construction of the society they seek to represent. In so doing certain identities will be reflected while others may be excluded or made invisible. This is the aspect of ideographs that allows them to operate as “constitutive signs of American sociopolitical community” (Condit p.18) as well as markers of “the primary sites of battles for hegemony” (18). Indeed, the process of asserting particular ideologies that operate to constitute identity has the potential to manifest those constructions in ways that exclude populations. When prominent political ideologies that shape our social reality prevent the inclusion of particular identities, this theoretical exclusion can manifest itself in material exclusion from the social reality that the ideograph seeks to create. Therefore it is important in the discussion portion of this criticism to explore the ways in which the

ideographic nature of <choice> targets particular polutations at the exclusion of others and to assess the societal impact of that exclusion.

The goal of this study is to trace the diachronic development of <choice> as it emerges from the law and those who promote it, to identify synchronic relationships between <choice>and other ideographs, and to assess the limitations, if any of <choice> in fulfilling its goal of ensuring that every woman has the right to obtain an abortion if they so choose one. .

## **CHAPTER 3 - The Supreme Court's Articulation of Choice**

Because ideographic criticism requires diachronic analysis, it is necessary to trace the historical emergence and evolution of the ideograph in question. For this reason, it is beneficial to explore the emergence of <choice> as a legal concept, particularly because <choice> did not emerge as an ideograph until the pro-choice movement adopted the rhetoric of the Court's decision in *Roe*. In so doing, four Supreme Court cases will be analyzed in an attempt to reveal the relationship of <choice> to other ideographs that function within our society and to explore the implications of those relationships upon the meaning and capacity of <choice>.

What follows is an analysis of four abortion cases that have proven central to the legal definition of <choice>. After the establishment of the right to choose in *Roe v. Wade*, the subsequent cases of *Maher v. Roe*, *Harris v. McRae* and *Webster v. Reproductive Health Services* questioned federal and state attempts to limit women's access to abortion. While many have read the right established in *Roe* as a constitutional entitlement, a diachronic investigation of the Court's grounding of <choice> in <privacy> and <liberty> reveals that the right to choose hangs by a very loose constitutional thread because of the ideographic limitations of <liberty>.

### **Roe v. Wade**

The first Supreme Court case to establish the "Right to Choose" was *Roe v. Wade* in 1972. A Texas woman (Jane Roe) challenged a Texas statute that prohibited a woman

from obtaining an abortion. Sarah Weddington, a young Austin lawyer, represented her. In order to evaluate the emergence of <choice> as a conceptual right from this case it is necessary to look at the ways in which <choice> was used not only by Weddington, but also by the state of Texas in the oral arguments made before the Supreme Court.

The notion of <choice> appears a dozen times in the official transcript of the oral argument before the Supreme Court in the Roe v. Wade hearing. The bulk of the discussion about <choice> (all but one reference) appears in the State's response to the petitioner. In responding to Justice Stewart's question regarding when a woman might be able to legally acquire an abortion in Texas, the state responded:

Now I think she makes her choice prior to the time she becomes pregnant. That is the time of the choice. It's like, more or less, the first three or four years of our life we don't remember anything. But, once a child is born, a woman no longer has a choice, and I think pregnancy then terminates that choice. That's when.

To which Justice Stewart responds "Maybe she makes her choice when she decides to live in Texas". This scene is described by Sarah Weddington (1993) as one which drew laughter from the courtroom (p. 119-120).

Here <choice> is interpreted by the state as the decision a woman makes to become pregnant, in this context the decision to become pregnant is synonymous with the decision to have a child. Hence, the state of Texas articulates <choice> as something a woman has only until she becomes pregnant. The State's attorney who sought to maintain the illegality of abortion initiated the language of <choice> in the oral argument of Roe v. Wade. It is here that one can begin to see the legal construction of the ideograph and the extent to which ideographs can be molded and manipulated as they become vested with meaning.

Contrary to popular belief, Jane Roe's argument was not "I have a right to choose". In her arguments for the right to obtain an abortion, Roe's lawyer, Sarah Weddington did not use the phrase "right to choose", and she did not include the notion of <choice> in her discussion of a <privacy> justification for abortion. Rather, it was the State's usage of the term <choice> that was adopted by the Supreme Court in writing their opinion in favor of Jane Roe. In coopting the State's use of the terminology of <choice>, the Supreme Court separated the concept of <choice> into two choices. The <choice> to become pregnant and the <choice> to have a child.

The majority decision, written by Justice Blackmun, provides evidence that the court played a role in establishing the preeminence of the rhetoric of <choice> versus life in the abortion controversy. In siding with the appellant, the decision states that the Texas statutes "improperly invade a right, said to be possessed by the pregnant woman, to choose to terminate her pregnancy"(Roe v. Wade, 1973) . This statement separates the <choice> a woman makes to get pregnant from the <choice> a woman makes to terminate a pregnancy. Here <choice> is elevated to the status of a right. This lays the groundwork for <choice> to become elevated to ideographic status. Blackmun laboriously outlines the history of abortion jurisprudence and in so doing noting, "the opportunity to make this choice was present in this country well into the 19<sup>th</sup> century" (Roe v. Wade, 1973).

Abortion is most strongly referred to as a <choice> when articulating that the "Ninth Amendment's reservation of rights to the people is broad enough to encompass a woman's decision whether or not to terminate her pregnancy. The detriment that the State would impose upon the pregnant woman by denying this choice altogether is apparent"

(Roe v. Wade, 1973). Here, this particular synchronic usage of <choice> links it with other constitutional protections such as those enumerated in the Ninth Amendment. The emergence of this synchronic relationship in Roe, allows <choice> to become embedded in the ninth amendment's preservation of <privacy>. In writing his decision Justice Blackmun did not expand upon the notion of the constitutional protection of the right to <privacy> other than to say that it exists and that it protects a woman's <choice> to terminate a pregnancy. This is significant because this lack of elaboration upon the meaning of <privacy> and its own synchronic relationship to higher order ideographs led pro-choice advocates to assume that this new right to choose was an ultimate right, void of limitations. Several subsequent cases have challenged this "right to choose" and in so doing the court has been forced to be more articulate about its extraction of <choice> from <privacy>.

### **Maher v. Roe**

In 1977 the Supreme Court granted certiorari to hear Maher v. Roe, a case that challenged a Connecticut statute that denied the use of state welfare funds to perform abortions. In this instance, a woman reliant upon state welfare funds desired an abortion but was unable to afford one because the state would not extend her welfare benefits to cover the procedure.

In deciding this case, the Court expanded upon its grounding of the Right to Choose within the ninth and now the fourteenth amendments. In rearticulating the Roe decision Justice Powell wrote:

Drawing on a group of disparate cases restricting government intrusion, physical coercion, and criminal prohibition of certain activities we concluded that the Fourteenth Amendment's concept of personal liberty affords constitutional protection against state interference with certain aspects of an

individual's personal "privacy" including a woman's decision to terminate her pregnancy (Maher v. Roe, 1977)

Here, <choice> is articulated as grounded in the right to be free from governmental intrusion upon an individual's <privacy>. The court extracts <choice> from both <liberty> and <privacy> and lays the foundation for nearly all of the abortion jurisprudence that followed over the next thirty years. <choice> is painted here as a right to be free from interference in decision making, which the court was quick to point out as distinct from a right that entails an obligation on behalf of the government to ensure access to enacting that <choice>. Powell Continues:

Roe did not declare an unqualified "constitutional right to an abortion," as the district court seemed to think. Rather, the right protects the woman from unduly burdensome interference with her freedom to decide whether to terminate her pregnancy. It implies no limitation on the authority of a State to make a value judgment favoring childbirth over abortion, and to implement that judgment by the allocation of public funds (Maher v. Roe, 1977).

In Maher, the Supreme Court reversed a district court decision that would have required the state to fund abortions desired by indigent women who were unable to pay for them and upheld the Connecticut state statute that barred the use of public funds for abortions. In so doing, the court laid the groundwork for state restrictions upon abortions based upon the notion that <choice> is embedded in the right to be free from government intrusion, the court articulated that the state had no affirmative obligation to assist women in obtaining an abortion. Here, the synchronic relationship between <choice>, <privacy>, and <liberty> impacts the ideographic capacity of <choice>. Because <choice> is derived from <liberty> it is subject to the inherent limitations of <liberty>. It is in instances such as this that we can see how it is not enough to explore

the individual diachronic meanings of ideographs, rather it is in relationships to other ideographs that meaning and ideographic capacity emerges.

### **Harris v. McRae**

In 1976 Congress passed the Hyde Amendment. This legislation was essentially a national version of the Connecticut statute under scrutiny in *Maher*. The Hyde Amendment barred the use of any federal funds (i.e. Medicaid or welfare funds) for the attainment of an abortion; additionally it barred public hospitals that received public funds from performing abortions. In 1980 the Supreme Court heard and decided *Harris v. McRae*, a case that challenged the constitutionality of the Hyde Amendment on the grounds that it violated the First, Fifth and Ninth Amendments of the constitution in that it limited funding of abortions while promoting and funding childbirth. “With regard to the constitutionality of the Hyde Amendment, the plaintiffs asserted, among other things, that the finding restrictions violate the Religion Clauses of the First Amendment and the Due Process Clause of the Fifth Amendment” (*Harris v. McRae*, 1980, p. 305). For the purposes of this analysis, the Religion Clause is not of significance in analyzing the ideograph of <choice> as it pertains to the right to obtain an abortion, however the Due Process Clause questions are of particular interest because this is where the synchronic relationship between <choice> and <liberty> is derived from.

Justice Stewart wrote the majority decision in *Harris*. In his decision, Stewart discusses <choice> at length in clarifying the preceding decisions of *Roe* and *Maher* and in articulating why the Hyde Amendment does not violate the constitution. In rearticulating the Court’s stance in *Roe*, Stewart notes that even though <privacy> is not explicitly articulated in the Bill of Rights, it is indeed protected as a <liberty> interest:

The constitutional underpinning of *Wade* was a recognition that the “liberty” protected by the Due Process Clause of the Fourteenth Amendment includes not only the freedoms explicitly mentioned in the Bill of Rights, but also a freedom of personal choice in certain matters of marriage and family life. This implicit constitutional liberty, the Court in *Wade* held, includes the freedom of a woman to decide whether to terminate a pregnancy. (*Harris v. McRae*, 1980 p. 312).

This is the first decision in which the court explicitly articulates that the right to choose as a protected <liberty> interest is one that does not have a constitutional basis in the bill of rights, rather it is extracted from the Court’s interpretation of what <liberty> means.

In *Harris* the court sided with the government and found that the Hyde Amendment did not represent a violation of constitutional rights. This is justified by returning to the *Maier* decision in “later cases—protecting a woman’s freedom of choice—did not translate into a constitutional obligation of Connecticut to subsidize abortions, the Court cited the basic difference between state interference with a protected activity and state encouragement of an alternative activity” (*Harris v. McRae*, 1980 p. 315). Here the Court is drawing a distinction between preventing a woman from obtaining abortion and promoting childbirth. The ideographic capacity of <choice> changes drastically when the State determines that it will pay for childbirth, but not an abortion. Later in the decision Stewart clarifies this notion:

It simply does not follow that a woman’s freedom of <choice> carries with it a constitutional entitlement to the financial resources to avail herself of the full range of protected choices. The reason why was explained in *Maier*: although government may not place obstacles in the path of a woman’s exercise of her freedom of choice, it need not remove those not of its own creation. Indigency falls in the latter category. The financial constraints that restrict an indigent woman’s ability to enjoy the full range of constitutionally protected freedom of choice are the product not of governmental restrictions on access to abortions, but rather of her indigency (*Harris v. McRae*, 1980 p. 316).

Here the Court is articulating that the government has no responsibility to provide a woman with choices that she cannot afford. While the government will protect <choice> by limiting the extent to which it can be taken away, the government is not obligated to ensure access to <choice>. The legal basis for this is because <liberty> does not entail an affirmative government obligation, Stewart also notes, that “nothing in the Due Process Clause supports such an extraordinary result” (Harris v. McRae, 1980 p. 317).

Because <choice> was established in Roe as a <privacy> right protected as a <liberty> interest, <choice> can only manifest itself as a negative right—a right to be free from governmental intrusion. This provides a legal justification for limiting the extent to which the most vulnerable members of our society are able to exercise that right. Because indigency is not a condition created by the State, there is no obligation on behalf of the state to enhance the choices available to indigent women. It is here that serious implications of the synchronic relationship between <choice> and <liberty> can be derived. It is here that the alleged idea content of <choice> as an ultimate right to obtain an abortion manifests itself as such only for those who can afford to avail themselves of that right. The “material reality” McGee speaks of is that large portions of the population are left with the <choice> that the State will assist them in making. For pregnant women, this means the <choice> to have a child, in later chapters we will discuss how this implicates state sponsored sterilization programs targeted at specific populations who are unable to exercise their <choice> outside of those which the State will assist them in making.

### **Webster v. Reproductive Health Services**

Reliance upon the interpretation of <liberty> as a negative right arises again in 1989's *Webster v. Reproductive Health Services*. This case concerned a 1986 Missouri statute consisting of 20 provisions, five of which were challenged in the Supreme Court. One of those provisions was to prohibit "the use of public employees or facilities to perform or assist abortions not necessary to save the mother's life, and it prohibits the use of public funds, employees, or facilities for the purpose of 'encouraging or counseling' a woman to have an abortion not necessary to save her life" (*Webster v. Reproductive Health Services*, 1989, p. 501). This instance differs slightly from the previously questioned Connecticut statute and the Hyde Amendment because those instances pertained to the use of state or federal funds only, the Missouri statute went a step further mandating that state facilities and employees cease advising women to have abortions unless pregnancy were life threatening.

In evaluating the constitutionality of this particular provision of the Missouri statute, the court once again relied on the negative nature of the constitutional <liberty> guarantee in Rehnquist's written decision. "The Due Process Clauses generally confer no affirmative right to governmental aid, even where such aid may be necessary to secure life, liberty, or property interests of which the government itself may not deprive the individual" (*Webster v. Reproductive Health Services*, 1989, p. 507). While the government may not take away one's <liberty>, there is no obligation to ensure it. Rehnquist strays away from using the term <choice> too much in this decision, mentioning <choice> as it pertains to pregnancy in the decision when he states that "it is difficult to see how any procreational <choice> is burdened by the state's ban on the use of its facilities or employees for performing abortions" (p. 510), and again "Missouri's

refusal to allow public employees to perform abortions in public hospitals leaves a pregnant woman with the same choices as if the State had chosen not to operate any public hospitals at all” (p. 509). Because the state has no obligation to provide health care in the form of public hospitals, the state certainly has no obligation to utilize them to perform abortions. Because <liberty> is only a protection from state intervention and does not provide an obligation, there is no jurisdictional mandate for state sponsored health care, much less abortions.

Reading the four Supreme Court cases of Roe, Maher, McRae, Harris, and Webster in an attempt to diachronically trace the development of <choice> and its synchronic relationships with other higher order ideographs such as <privacy> and <liberty> reveals the extent to which ideographs that begin as abstractions, such as <choice> did in Roe with Blackmun’s failure to elaborate upon the constitutional grounding of <choice> as a <privacy> right shift over time as their synchronic relationships to other ideographs (<liberty>) become fleshed out. In this process the critic can begin to identify populations that are excluded from the ideologies these ideographs emerge from. Hence, the relevance of this sort of study poses for communication scholars becomes more evident, as Foss indicates, the critic “discovers that the dominant ideology revealed in the artifact suppresses the voices of important interest groups” (1996, p. 295). It is the role of the communication scholar to “give voice to those interests” (p. 296). The analysis of these four cases reveals the extent to which the dominant ideology of <choice> excludes those whom the court identifies as indigent women. For indigent women, the options available to them under the guise of <choice> are only those

<choices> that the State is interested in providing, and for the majority of these women their only reasonable <choice> is childbirth.

## **CHAPTER 4 - Pro-Choice Rhetoric and the Usage of <choice>**

Investigating ideographic usages of <choice> requires the analysis of the ways in which the rhetoric of <choice> is deployed by those who advocate and promote its ideographic status. Because pro-choice advocates uphold the ideographic status of <choice> as a constitutional right, any investigation of <choice> as an ideograph must include the ways in which pro-choice advocates deploy <choice> rhetoric. The ideal rhetoric for analysis is that which emerges from the organization that includes the rhetoric of <choice> in its title, NARAL Pro-Choice America. Originally the National Association for the Repeal of Abortion Laws (NARAL), this organization was active in attempts to legalize abortion before Roe. Since 1973, NARAL has been on the forefront of efforts to organize Pro-Choice Americans in order to ensure that the right to obtain an abortion remains available to all women. Changing its name to the National Abortion Rights Action League to represent the legalization of abortion after Roe, the mission of NARAL became:

to develop and sustain a constituency that uses the political process to guarantee every woman the right to make personal decisions regarding full range of reproductive choices including preventing unintended pregnancy, bearing healthy children and choosing legal abortion (naral.org)

In its attempt to represent this mission, NARAL engages in several activities. It produces a variety of publications distributed to its membership, from recruitment documents to documents prepared for and to promote litigation. NARAL works to promote its mission by targeting geographic regions, particular populations, and in an issue specific manner

all at once. In 2003, in order to better articulate the Pro-Choice stance of the organization, the phrase "Pro- Choice America" was added to NARAL's moniker, making the organization's full name National Abortion Rights Action League Pro-Choice America, better known as NARAL Pro-Choice America.

The following ideographic investigation into the rhetoric of NARAL Pro-Choice America focuses on two of the organization's publications. One is a collection of women's stories about their attempts to obtain an abortion that includes an introduction and an abbreviated history of the right to <choose> written by NARAL. The second document represents an activist manual and tool-kit targeted towards activating women of color to support the NARAL Pro-Choice America agenda. Each of these documents deploys the rhetoric of <choice> in a different manner than the other, and in a far different manner than the ways in which the Supreme Court has articulated

In reading these artifacts, attention is paid to the instances in which <choice> is evoked to express the right to obtain an abortion. Once these instances are located, the analysis attempts to derive what is meant by <choice> from the context in which the usage arises. Most importantly, this analysis seeks to identify and assess the instances in which choice is or is not associated with other ideographs and the ways in which these relationships (or lack there of) shape the ideographic nature of <choice>.

## **Choices**

In 1985 NARAL Pro-Choice America (then NARAL) began the "Women Speak Out" campaign in which "women across the nation spoke publicly about their abortion experiences" (Choices, 1997, p. 7). An outgrowth of this campaign was *Choices- Women Speak About Abortion*, a collection of narratives published in 1997. The book consists of

a preface, introduction, and 12 stories of women who experienced abortion. The twelve stories all represent different experiences, six of the stories are of women who obtained abortions before it became legal in 1973, the story of one teenage girl, Becky Bell who obtained an illegal abortion in 1988 after she became aware that she would be unable to obtain a legal abortion without the consent of her parents, three stories of women obtaining legal abortions, and two stories that tell of the experience of women who obtained an abortion after learning that their children would be unable to survive, or seriously disabled. Many of the women who tell these stories express the importance of the right to <choose> in their lives. The introduction and overarching NARAL narrative of reproductive history that reads on the bottom of each page is a particularly interesting text for analysis. Beginning on the first page, several sentences are contained on the bottom of each page. The Introduction asks the reader to read the narratives and then go back and read the contextualization of reproductive history on the bottom of each page. This particular text sheds insight as to the ways in which <Choice> is ideographically deployed by Pro-Choice advocates. These stories provide greater comprehension of individual women's interpretations of <choice>, and the ways in which <choice> becomes vested with meaning for women who seek to obtain abortions.

For the purposes of analysis this text is divided into three portions based upon their functions in the document. The first portion of the document is the Introduction. This serves to situate the rest of the text within the context of promoting the agenda of NARAL Pro-Choice America. The second portion of the document contains the narratives, or individual stories told by women who have obtained abortions. This portion serves to ground the agenda of NARAL Pro-Choice America in the experiences of

individual women. The third portion of the text is described in a note to readers at the very beginning of the text as an overarching "historical narrative" that connects the individual narratives with the "broader struggle for reproductive rights in the United States". Each of these portions of the text will be analyzed separately with regard to the function they serve in the text.

The introduction to the text was written by Karen A. Schneider, president of NARAL at the time of publication. In framing the context for the narratives that will follow, Schneider discusses <choice> in the greater context of women's equality, "The ability to decide when to bear a child—and when not to—is essential for women's full emancipation and participation in society. Without the freedom to choose, women's march toward equality would have stalled long ago" (Choices, 1997, p. 6). Here <choice> is less defined, rather, Schneider is vesting <choice> with ideographic power through abstraction. This is an instance where an abstract ideograph is evoked in what McGee calls "struggles for hegemony". In this instance the struggle for hegemony being invoked in the ideograph of <choice> is the struggle of women to participate in society equally to men. This quote elevates <choice> to a central tenet of feminist struggles for equality. Simultaneously, <choice> is not defined The ideographic meaning of <choice> is assumed while its importance in terms of the emancipation of women is stressed. While the text is entitled *Choices* there is little done to ground the concept and explain its meaning, rather it is abstracted and held esteemed as a "fundamental American value, a cardinal principle, and a constitutionally protected right" (p. 6).

The implication of situating <choice> within such terminology as "fundamental American value", "cardinal principal", or a "constitutionally protected right" is to

construct <choice> ideographically as McGee phrases as " a higher order abstraction representing collective commitment to a particular but equivocal and ill-defined normative goal" (McGee, 1980a, p. 15). Here, <choice> is not necessarily defined, rather it is abstracted as it is described as synonymous with higher order abstractions such as American values, principals and constitutional rights. This is an instance of the expression of a syllogistic relationship, a usage of an ideograph deployed alongside others. The articulation of the relationship between <choice> and these normative goals is not specified. <Choice> is posited as value free discourse in a world in which values, principles, and constitutionality are concepts that are undebatable in American society. The introduction to this collection of stories entitled *Choices*, and ostensibly about <choice> does very little to convey the meaning of <choice> to the reader. This lays the groundwork for a text that treats <choice> as a higher abstraction loaded with what McGee calls "alleged idea content".

The personal narratives included in the text *Choices* have for the purposes of this analysis been divided into two categories. First are those that do not use the terminology of <choice>. These stories tell of women's experiences with abortion, but do not refer to the right to obtain an abortion as the right to choose. The women who tell these stories do, at times, refer to the legalization of abortion but they do not attach the right to obtain an abortion to the ideograph of <choice>. Second are those narratives that discuss the value of <choice> but do not specifically define <choice>. Several of the stories in the book do not elaborate on what <choice> necessarily means to the individuals telling the stories. Instead of vesting <choice> with meaning, the authors of these narratives vest it

with power. Many stories conclude with women articulating the importance of <choice> in their lives without an explanation of its meaning.

In the first category are the stories of women's experiences with abortion that do not use the terminology of <choice>. Lynn Kahn's story of seeking out an illegal abortion after having been raped in an alley way after work is one of the most gruesome stories of illegal abortion included in the collection of stories. This narrative tells of seeking out an abortionist who came to Kahn's home.

She asked me to lie down on the bed. She took a long rubber orange tube out of a bag, put it in one of my kitchen pan, filled it with water, and boiled it on the stove to sterilize it. When it was cool enough for her to touch, she inserted the tube in me, and told me to lie on my back for the next 24 hours. She said she would come back to my apartment the next morning to remove the tube and see if everything was alright.....the woman came back the next day. She said she was going to remove the tube and I would probably have some bleeding. It wasn't painful, but then the blood started to come out fast. Her eyes got really big, and she left quickly (p. 14)

Kahn's story continues by retelling her attempt to seek medical treatment after the woman left. At the first hospital she went to, she was turned away, at the second hospital she was admitted and placed in a room with police guards and other patients who had broken the law. This particular narrative does not discuss the legalization of abortion, or <choice>.

Carol Wall tells her story of seeking an abortion in 1966 after she found out she was pregnant for the fifth time in six years. Her story tells of how she traveled to Puerto Rico to seek an abortion. The story does not mention <choice> at all, however it does conclude with a reference to the right to obtain an abortion "About seven years later, *Roe v. Wade* was handed down. It was one of the most wonderful moments of my life. I had such a feeling of freedom-it was like a release from slavery" (p. 23). In this instance, Wall uses an incredibly strong analogy in discussing the legalization of abortion. She

likens it to being freed from slavery. For her, the right to obtain an abortion is as much a victory for women's rights as the abolition of slavery was for black Americans. This analogy tells the reader how important the right to obtain an abortion is to Carol Wall, but in so doing the right to obtain an abortion is not elaborated as the right to choose.

Shannon Lee Dawdy recounts her narrative of aborting a fetus with anencephaly.

The neonatologist didn't mince words. He called it anencephaly, a neural tube defect in which the skull doesn't close and the brain tissue cannot form normally. He said that these babies, if they are born alive, don't live more than three days. That sealed my decision. Through my tears I said I would terminate the pregnancy (p. 42)

In Dawdy's case, she was subject to Louisiana informed consent and mandatory waiting period statutes. These laws, require women to be informed of all of their options before agreeing to have an abortion. "I was supposed to calmly read all this information- anti-choice propaganda, really- and sign my name to each item. There were a couple of lines about adoption which, of course, was totally irrelevant in my case" (p. 43). Dawdy does not refer to choice, except in her identification of "anti-choice propaganda" and "anti-choice legislation". She does not discuss the importance of the right to choose, nor does she elaborate upon what <choice> means to her. One could assume that the purpose for the inclusion of this story is to give the perspective of a woman who wanted to have a child, but became pregnant with a fetus that was incompatible with life. For her, the parts of her experience that yield importance are not about how important the right to choose is, rather the ways in which "anti-choice" laws inconvenienced her.

Bylye Avery is the founder of the National Black Women's Health Project. Her story of a safe, legal, unemotional abortion is perhaps the most sterile story included in the text.

Before the procedure, the nurse said, 'you might have all kinds of feelings when it is over, you may cry a lot and we'll be here to support you.' I did not react that way. Instead, I felt a sense of relief when it was over.....To me, abortion means stopping a potential life. It would be dishonest for me to say that this is not live tissue. When you prevent conception, you are also preventing a potential life. Abortion is an extension of that prevention. That's the way I see it. (p. 47)

Avery does not reference abortion as <choice>. She does not talk about the importance of the right to obtain an abortion. Avery does not elaborate on her abortion experience the way some other women do, she is very matter of fact.

These particular stories do not explicitly endorse the language of <choice>. They are stories about women's experiences with abortion, but there is nothing rhetorically connecting them to this notion of <choice> that has lent itself as the title of the collection, *Choices*. There are however, several stories that do deploy the rhetoric of <choice>. In so doing most of these stories do not yield any greater understanding of the meaning and scope of <choice>, rather they illuminate the value those telling the stories adhere to <choice>.

Polly Bergen, who obtained an illegal abortion during the 1940's concludes her narrative with:

The government should never have a choice regarding a woman's right to choose. It is a choice that should be made personally by a woman with her husband, her family, her priest, her minister, her rabbi, or just within her own heart. In the end, a woman has to decide what is the right choice for her at that moment in time. If you can't trust a woman with a choice, how can you trust her with a child? (Bergen, *Choices*, 1997, p. 12)

This editorialization posits <choice> as a personal decision in which the government should not intervene. Bergen is not explicitly articulating <choice> as a privacy concern, however privacy can be inferred in her statement. Bergen's claim is that the government should have no right to intervene. Articulating an ideograph as <choice>

in this manner makes it appear as if it's not a legal concept, but a personal decision.

<Choice> is posited here as a thing that a woman can possess as opposed to a more abstract value, or principle as Shcneider had elevated it to in the introduction.

Ideographically, Bergen identifies <choice> as a concept that stands by itself, without resting upon other ideographs.

Many women who tell their stories simply state that they are proudly Pro-Choice replicating the editorialization of Polly Bergen. For instance, Mary Roper tells her story of having been date raped in college and seeking out an illegal abortion. Her story does not make reference of <choice> until the last paragraph:

It is my hope and prayer that the right to choose will never be taken away. And these days it seems like a possibility. We must have freedom to make our own reproductive choices and access to counseling and support. Looking back, I can say that despite my experiences, I was one of the lucky ones. I survived; others did not. I tell my story for them, so that no woman will ever have to repeat my journey Choices, 1997, p. 19

This is the extent of many of their references to <choice>; however, one story in particular describes <choice> as something a woman possesses in much the same way Bergen articulates <choice>. Jennifer Nye, who obtained a safe legal abortion in New Hampshire during the 1980's reflected upon the experience of a teenager's story that is also told in this collection of stories. Becky Bell died in 1989 of an infection that was the result of an illegal abortion she obtained in Indiana because she was too ashamed to seek the consent of her parents (which the state of Indiana required of all minors seeking abortion). In comparing her situation to that of Becky Bell, Jennifer Nye states that "the only difference between us was luck and geography. She lived in a state where she had to tell her parents and I did not. She died for her choice. I did not". This is an awkward

usage of <choice> in which it is clear that the <choice> to obtain an abortion is not available to all women, yet Becky Bell still made a <choice>. Becky Bell exercised her <choice>, but a law determined the way in which her <choice> manifested itself. <Choice> is not only constituted by the right to obtain a safe legal abortion, but for Becky Bell, her action in the face of her inability to obtain a safe legal abortion also constitute enacting a <choice>. Whereas Schneider and Bergen posit <choice> as the ability to obtain an abortion via a constitutional right, Nye describes Becky Bell's inability to exercise this right as an enactment of <choice> . Here <choice> exists simultaneously within and in opposition to its alleged idea content. This is how the ideograph becomes an "ill defined normative goal" as a result of its abstraction.

A note to readers at the very beginning of *Choices* instructs the reader about how to go about reading this document.

We invite you to experience the lives of one dozen women in this book as they make the intensely personal and profound decision about abortion. After you have read their stories, please go back and read the historical narrative that places their experiences in the broader struggle for reproductive rights in the United States. The narrative begins on page 9 and continues across the bottom of each page.

Like a continuous footer, this larger contextualizing narrative serves as the diachronic articulation of the development and evolution of <choice> over time. Serving the function McGee identifies as establishing the "parameters" of an ideograph (McGee, 1980, p. 16). In and of themselves, the stories don't make the leap to the ideograph of <choice>. The stories represent synchronic usages of <choice>. The contextualization of these stories within the larger diachronic articulation of <choice> through the narrative of "the broader struggle for reproductive rights" is what binds the individual experiences together as ideographic expressions of <choice>.

This narrative differs from the others. This is not a personal story of one woman's experience told in the first person. This narrative is a third person attempt to generalize about the history of all women's reproductive rights. And, it is through this broader narrative that the 12 individual stories in this collection are contextualized and associated with the pro-choice message.

This narrative itself does not invoke the language of <choice> with great frequency. But there are some striking usages that should be pointed out. The narrative begins with the sentence, "Throughout U.S. history, a woman's fundamental right to choose has never been fully realized" (9). The notion that <choice> has never been fully realized propels it into ideographic status. It is immediately, an ideal, a goal, something to strive for.

The narrative continues by discussing the status of women in the 19<sup>th</sup> century, referring to the Comstock Act (although, not by name) that made it illegal for information about birth control to be distributed via the United States Postal Service. And moves into a lengthy analysis of the status of women's reproductive rights in the post World War II era until 1973 when the Supreme Court decided *Roe v. Wade*. In discussing this event, the narrative states that, "Roe was a careful compromise, recognizing a woman's constitutional right to choose abortion up to fetal viability" (26). This codifies the assumption that Roe's establishment of the right to legally obtain an abortion is synonymous with the "right to choose". However, in discussing the legalization and availability of abortions, this narrative rarely engages the rhetoric of <choice>, rather most frequent usages of the rhetoric of "choice" manifest themselves in identification of

anti-abortion activists and measures. “Roe” is used as “right to choose” and “anti-choice” is used to mean “anti-abortion”. For instance:

But after a quarter century of legal abortion, the promise of Roe remains unfulfilled. Although the freedom to choose endures as a legal right, anti-choice activism and subsequent Supreme Court decisions have increased government regulation of abortion and made abortion less accessible. (30)

Again:

Anti-choice forces mobilized immediately after Roe and executed a comprehensive political and legal strategy (31)

And again:

The same year, opponents of choice demonstrated their political clout by helping elect a president who packed the federal courts and the Supreme Court with judges opposed to Roe. (32-33)

This move of only using <choice> in the negative sense, referring to those who are opposed to <choice> rather than affirming that <choice> has meaning contributes to abstracting <choice> as a higher ideographic ideal. <Choice is made out to be something that is good and desirable, yet threatened and in jeopardy.

The reader is told to read this contextualizing narrative last, after having read the individual stories of women that are included. As a result individual experiences become endowed with clear ideographic purpose. The overarching narrative enables the individual narratives to become part of the diachronic development of the ideograph of <choice>, while the individual experiences represent experiences and manifestations of <choice> that have not been synchronically linked with other ideographic ideals. The individual experiences expressed in this document become part of the larger historical development of <choice> as an ideographic ideal via the grand narrative of women’s reproductive rights that the reader is to read at the end.

## **Breaking Barriers**

*Breaking Barriers* is a ninety-eight page document produced by NARAL Pro-Choice America in 2006 outlining issues surrounding reproductive rights of particular concern to women of color. NARAL Pro-Choice America freely offers many documents that are issue specific, designed to assist people in advancing the Pro-Choice agenda of the organization. Because *Breaking Barriers* is a document targeted at a population, rather than a single issue it addresses several issues. *Breaking Barriers* presents reproductive rights issues pertinent to women of color along with strategies for how to organize what it calls “proactive policy campaigns”, to address these particular issues. As such, *Breaking Barriers* is one of the longest and most diverse collection of problems and strategies for addressing them published by the organization. Even as such, the entire document only references <choice> a few times. The fact that *Breaking Barriers* is so long, with so few references (less than 10) to <choice>, or the right to choose is a reflection of the tendency of NARAL Pro-Choice America to elevate <choice> to an abstraction in order to maintain its alleged idea content.

The first section of the document is entirely devoted to defining a proactive policy campaign with tips about how to organize and build coalitions. This is the section of the document with the most references to <choice>. Usages of the term are minor, for example in bullet pointing the reasons why proactive policy campaigns are good it is explained that these campaigns serve to “provide a platform to better define and articulate pro choice values and principles”, to “expand [the] base of pro-choice volunteers” and “give pro-choice policy makers something to support”(2006 p.1). Pro-Choice in these terms are abstract groupings of people and ideas. Here, <pro-choice> is an ideographic stance that represents particular values and principles, yet what those values and

principles are left undefined. In such an abstraction, <choice> is value laden with neutral value meaning. Values and principles are to be held in esteem, but what they mean or constitute is not directly articulated in reference to <choice>. Pro-Choice policy makers, are a group of people who adhere to pro-choice values, but what constitutes one as a pro-choice policy maker? Who are these people? It is as if a certain familiarity with “pro-choice values” is assumed about the reader of the document and that grounding those values in a synchronic relationship with other values or principles is unnecessary. Clearly NARAL is attempting to invoke a relationship between <choice> and other ideographs, but the failure to specify them beyond an illusion to <choice> being value laden maintains an abstract notion of what it means to embrace <choice>. But McGee reminds us that ideographs should not only be explored in isolation, but also "related to one another in such a way as to produce unity of commitment in a particular historical context." (1980a, p. 16). The references to pro-choice values elude to synchronic relationships between <choice> and other ideographs, but above and beyond revealing that such relationships exist, the nature of these relationships are left undefined in this instance of the rhetoric of pro-choice advocates. Clearly for pro-choice advocates, <choice> is not devoid of meaning, it means a great deal to them, however their ability to articulate that meaning in the context of this document is troubling. If the purpose of this document is to provide a "platform to better define and articulate pro choice values and principles" (Breaking Barriers, 2006, p.1), it does not achieve that goal. Instead, *Breaking Barriers* does little to better define pro-choice values, it merely abstracts <choice> to the extent that almost all we know about it is that it is associated in some way with values and principles.

Increasing the level of <choice> abstraction, the manual articulates that “Promoting public funding for abortion demonstrates the fundamental pro-choice principle that the right to choose an abortion is meaningless without the ability to carry out that decision” (2006 p. 60). Here, one of the "principles" alluded to earlier is articulated as not only the right to obtain an abortion, but the ability to actually obtain one. This statement is a contribution to abstraction because it does not explain what gives pro-choice values meaning; rather it illustrates how pro-choice values can be rendered meaningless. . A fundamental principle of <choice> for NARAL is the ability to enact it. That an ideograph would only be vested with meaning if it were obtainable in the first place is an interesting principle of an ideograph. Rather than grounding an ideograph in a synchronic relationship with other ideographs, here, <choice> is grounded in its ability to manifest itself. The ability to carry out <choice> intimates that an individual must possess the agency necessary to do so. According to this usage of <choice>, such an ability is hindered because of a lack of public funding. Hence, the denial public funding for abortion is an example of one of the ways in which <choice> becomes devoid of meaning. This causes one to return to the concerns of Sonja Foss, that the rhetorical critic must not simply reveal the ideologies embedded in an artifact, but also reveal those that are muted in the process (1996, p. 295). In this case who is excluded from the "ability to carry out that decision"? For whom does <choice> become meaningless as a result of the issue of the lack of public funding?

Answering this question requires investigating the nature of funding bans and who in particular is affected. The denial of public funding is a direct result of the Hyde Amendment. Poor women who rely on the government for healthcare experience the

meaninglessness of <choice> that arises from the lack of federal funding articulated in *Breaking Barriers*. While for NARAL, the inability to enact <choice> renders it meaningless, there are others who agree with this sentiment, “the Hyde Amendment effectively allows the state to make the woman’s choice for her. If she cannot afford an abortion, she cannot seek an abortion. If she cannot seek an abortion, she cannot choose an abortion” (Berenknopf, 1997 p. 673). For many, The era of <choice> is marred by the Hyde Amendment’s implicit denial of <choice> through the elimination of avenues of access to abortion. Julie Kay (1994) explains the predicament that a woman who relies on Medicaid faces when seeking an abortion:

Denial of Medicaid funding curtails access to abortion for low-income women and may completely bar them from the power to choose abortion. Worse, it propels them to even more desperate "choices": facing the risk of an inexpensive illegal abortion or the danger of trying to self-abort. Other alternatives include attempting to raise funds for an abortion, going without food or other necessities, or putting one's health at risk by carrying the unwanted or unsafe pregnancy to term (p. 351).

It is undeniable that this lack of <choice> is felt most by low-income women of color. This impact on low-income women of color has been described as part and parcel with "stigmatization, racism, school segregation, and cycles of poverty” (Daly, 1995 p. 113). As a result of the denial of public funding for abortion, women in the United States are divided into two classes, those who can choose and those who cannot. It just so happens to be that the majority of those who do not enjoy the right to choose are the poorest and most stigmatized members of our society. For these women, <choice> is nothing more than an illusion, or as *Breaking Barriers* suggests, meaningless.

While analysis of the usage of <choice> rhetoric in *Choices* reveals the extent to which abstracted ideographs without synchronic linkages contributes to the

establishment of normative goals that are ill defined, it also becomes evident that <choice> is not a normative goal that is attainable to all. In positing <choice> as a constitutional right, the denial of which denies core American values, the extent to which millions are excluded from the ability to exercise such rights are obscured from the conversation. *Breaking Barriers* reveals a certain awareness on the part of NARAL Pro-Choice America, that for particular populations, <choice> is in fact meaningless as a result of restrictions on funding. However, <choice> is maintained in the rhetoric of NARAL Pro-Choice America as a higher order concept that has the potential to avail everyone of its alleged idea content, namely the ability to obtain a legal abortion. These pro-choice advocates stress that <choice> has the capability of fulfilling its role, but that more action must be taken by constituents to work towards establishing <choice> as a right capable of ensuring all women have the ability and right to obtain a legal abortion.

Reading *Choices* and *Breaking Down Barriers* from the perspective of an ideographic rhetorical critic reveal the extent to which pro-choice advocates seek to establish <choice> as deeply rooted in American values while simultaneously abstracting <choice> in a way that provides no insight as to the extent to which synchronic relationships with other ideographs contribute to the meaning of <choice>. Indeed, even when the stated goal of a rhetorical act is to better define pro-choice values, as is the case with *Breaking Down Barriers*, the reader is left with a better idea of what renders <choice> meaningless, than what vests it with meaning. What can be garnered from this analysis is that even for pro-choice advocates, <choice> is hollow as long as there are obstacles in the path of those who attempt to enact their right to choose in attempting to obtain an abortion.

## **CHAPTER 5 - Results and Discussion**

This project addresses the primary research question: Does the relation between the ideographic status of Choice to that of privacy provide a productive rhetorical mechanism for ensuring that all women have access to reproductive rights? Engaging in an ideographic rhetorical criticism of the usage of <choice> in the law and prominent pro-choice rhetoric yields findings that have implications on three independent levels. First, this analysis reveals much about the sustainability of the legal justification for abortion in America. Second, this criticism tells us about the ability of the pro-choice movement to achieve its own goals given its reliance upon the ideograph of <choice>. And, finally, this analysis implicates the method of ideographic criticism and opens up questions about McGee's focus on analyzing ideographs as both diachronic and synchronic usages of ideals.

### **Legal Implications**

Analyzing the diachronic development of <choice> as a legal concept through the four cases presented here reveals that <choice> is derived from <privacy> and that the right to <privacy> is emanates from the liberty interest articulated in the Due Process Clause of the constitution. In Roe, Maher, Harris, and Webster, it is clear that the Supreme Court interprets <liberty> as the right to be free from government interference. As such, <liberty> is expressed as a negative right, rather than a positive right in which the government has an obligation to assist a citizen in availing themselves of that right. As a negative right to be free from government interference, the Supreme Court, in all three cases, Maher, Harris, and Webster invoke this interpretation of <liberty> as the justification for the denial of funding for abortions. The rhetoric of pro-choice advocates

surrounding choice obscures the relationship between <choice> and <liberty> by abstracting notions of <choice> as commensurate with “American values” without directly connecting <choice> with <liberty>. While advocates of <choice> do not explicitly tie their usage of <choice> with an assertion of liberty, they do note that the denial of funding renders <choice> meaningless. It appears as if pro-choice advocates know that <liberty> renders <choice> incapable of achieving its goal of ensuring every woman has the ability to access an abortion if necessary and therefore refrain from making direct connections between <choice> and <liberty> in their deployment of <choice> rhetoric. The most interesting result is that advocates of <choice> may be aware of its limitations, but continue to advance the alleged idea content of <choice> that they hold as an ideal.

Sonja Foss suggests that rhetorical criticism has the capacity to “discover and make visible the dominant ideology or ideologies embedded in an artifact and the ideologies that are being muted in it” (1996, p. 295). As such a criticism, the ideographic analysis of the rhetoric of <choice> this study engages in has undoubtedly uncovered embedded ideologies at play in the deployment of <choice> as a political right. <Choice> has been synchronically linked to other ideographs that shape the parameters of its meaning in such a way that its ability to fulfill the alleged idea content that proponents of its expression invest it with are cut short. Primarily, the relationship between <choice> and <liberty> severely limits the extent to which the right to choose can be exercised by all women. For many, the victory obtained in Roe has been central to achieving equality for women. However, an ideographic analysis of the development of <choice> reveals the extent to which the very ideological assumptions that gave rise to the right to choose

function simultaneously as the justification for the denial of the ability to exercise the right.

Many feminists articulate the right to choose as central to the cause of women's equality and even a necessary right in struggles to end women's oppression. The pro-choice movement has hailed the right to choose as “an empowering emblem of liberation from the tyranny of biology” (Sollinger, 2001, p. 199). The analysis of *Choices* sends a clear message that for pro-choice women <choice> "is essential for women's full emancipation and participation in society. Without the freedom to choose, women's march toward equality would have stalled long ago" (Choices, 1997, p. 6). It is not until the relationships between <choice> and other ideographs such as <liberty> are revealed and explored that the inability of <choice> to live up to its purpose comes into view.

The revelation that <choice> is not a right that stands on its own foundation legally, rather that its emergence as a legal concept is only possible with the higher order ideal of <liberty>. is essential to understanding the potential for <choice> to function as a constitutional protection. <Choice> emerged out of the Court as dependent upon <liberty>. This dependency is then invoked in the process of chipping away at the ability of <choice> to accomplish its original purpose. With each additional attempt by the Supreme Court to expand upon the meaning and basis of <choice>, <liberty> has been invoked to justify specific limitations of the right to choose. In *Maher*, as the Court elaborated upon the grounding of <choice> in <liberty> the state became vested with the ability to assert a "value judgment favoring childbirth over abortion" (1977). Liberty is the vehicle through which particular values are embedded into <choice>. The state utilizes <liberty> to justify promotion of childbirth over abortion. This is a stark contrast

to the meaning of <choice> asserted by pro-choice advocates. Whereas advocates of <choice> purport it to represent the right to obtain a safe abortion, the state employs a higher order ideograph (<liberty>) to restrict that right. This analysis of <liberty> is employed again in Harris and even more so in Webster. The extent to which liberty does not entail a government obligation to provide access to particular rights such as the right to obtain an abortion is justified by the example that the state has no obligation to provide medical care at all. The Supreme Court even goes as far as to say that because the government has no obligation to operate public hospitals in the first place, it therefore cannot be obligated to ensure access to any medical procedure, much less an abortion (Webster, 1989, p. 509).

This ideographic criticism of <choice> reveals a severe limitation of <liberty> that it does not obligate the government to act; rather it protects citizens from interference from the government. In Webster, the Supreme Court promoted the infusion of particular values into government determinations of what activities it will promote and those it will not promote. In this particular instance, the government determined that it could promote childbirth through its funding of childbirth, but denial of funding for abortions. This is an example of how <liberty>, a seemingly benign and objective ideal can be invoked to justify the assertion of particular values over others.

McGee posits that although “we are taught to look for an objective definition of ‘liberty’” (1980b, p. 24); ideographic analysis reveals the ways in which our notions of liberty are not as objective as they initially appear. For McGee, his ideographic analysis led him to believe that American <liberty> was not the same as freedom. He uses an example of an individual who upon deciding to move to Yugoslavia during the 1970’s

when it was an extension of the Eastern Block. McGee this individual felt as though, even without free speech, he experienced greater liberty under totalitarianism than in the United States. The inability of the American consciousness to consider that one could feel more liberated under totalitarianism is a result of the ways in which ideology that is held as value neutral exist not only as “wrong”; they are rather positively dangerous” (McGee, 1980b, p. 25). McGee stresses the importance of contrasting experiences of peoples whose experiences with ideologies run contrary to widely held notions of objective ideology based on “a system of philosophical abstractions” (24). The insidiousness of ideology is exposed through this contrast of experience with abstraction. For McGee, ideology is not objective, it is subjective. An example of the subjectiveness of ideology is the ability of the Supreme Court to use <liberty> as a justification for valuing childbirth over abortion.

### **Implications for the Pro-Choice Movement**

In exploring pro-choice rhetoric it is evident that pro-choice advocates seek to posit <choice> as an objective abstraction constituting a “fundamental American value, a cardinal principle, and a constitutionally protected right” (Schneider, *Choices*, p. 6). The claim that <choice> is capable of existing in such a value neutral way is undercut largely by its inability to prevent particular populations from being excluded

Indeed this ideographic analysis of <choice> confirms McGee’s notion that seemingly benign ideologies can operate in dangerous ways. McGee argues that ideologies become abstracted in the American consciousness (much the same way <choice> is abstracted in Pro-Choice consciousness) in an attempt to create a “false fairy-tale” (McGee, 1983,p. 113) in order to excuse particular behaviors, in this case the false

fairy-tale of <choice> allows Pro-Choice Americans to accept the exclusion of particular populations from accessing the right to choose because their abstracted notion of the ideal of <choice> could not conceivably produce the opposite of its intent. Grounding <choice> in <liberty> enables particular populations to be excluded from the promise of <choice> that is so widely advanced by its feminist advocates. One of the ways in which this exclusion manifests itself is through the denial of public funding for abortion.

Angela Hooten, the Director of the National Latina Institute for Reproductive Health argues that grounding <choice> in <liberty> and <privacy> contributes to inequalities among women "Although the privacy argument was effective in securing certain reproductive rights under the Constitution, it has provided the Supreme Court a doctrinal justification for denying low-income women equal access to reproductive rights" (2005). The Supreme Court repeatedly cites the failure of privacy to require a government obligation as its justification for the denial of the use of public funds for abortion services. As a result of the denial of public funding for abortion, women in the United States are divided into two classes, those who can choose and those who cannot. It just so happens to be that the majority of those who do not enjoy the right to choose are the poorest and most stigmatized members of our society. For these women, choice is nothing more than an illusion.

The implication of the use of <liberty> as the justification for the denial of public funds for abortion is the division of women into two classes, those who can afford to choose and those who cannot afford to choose. This division situates abortion within a consumer context. Rickie Sollinger (2001) argues that "choice" rhetoric is part of an "individualistic, marketplace" (p. 6) mentality that pervades our "consumer-culture" (p.

6). When reproductive rights become reduced to a “choice” that can only be exercised by those with the resources to act on that “choice” the effect is “defining some groups of women as good choice makers and some as bad” (p. 7). Sollinger argues that this “era of choice” is marked by the increasing commodification of reproduction in which some women are legitimate consumers of choice and others are perceived as illegitimate consumers of choice (p. 7). This becomes translated into notions of what kind of woman is an appropriate mother, and who is not. If you are a woman who is capable of making an informed <choice> (a woman with the financial resources to make a choice) you fall into the category of being a legitimate mother, one who can determine when it is "right" for her to become a mother. Those who are not capable of making a <choice> because of a lack of financial resources are illegitimate mothers. The implication of this is that motherhood has become a class privilege in the United States (p. 200). The right to obtain an abortion becomes a right that you can exercise only if you can afford it.

Because rhetorical criticism compels us to seek out those who are excluded from ideology, it is necessary to explore who those excluded are and what the implication of that exclusion is. The lack of choice among low-income women of color not only places theoretical limitations on the capacity of choice to characterize the experiences of women, it also contributes to the exacerbation of inequalities in reproductive freedoms for all women in the United States. In *Maier*, the court's articulation of <choice> as a <liberty> concern allowed the state the ability to reserve the right to inject value judgements into women's choices. While the state will not pay for women to have an abortion, the state will pay for women to give birth, additionally the state will pay for women to be sterilized. Betty Horsburgh (1996) has argued that the state's willingness to

pay for tubal ligation but not abortion causes low income women who do not wish to have any more children to be coerced into accepting sterilization as a form of birth control (p. 557). For Sollinger (1991), choice has been formulated within a larger context of racism, sexism, and classism (p. 35) allowing the state to assert control of the reproductive capacities of women of color. Andrea Smith (2002) explains that this assertion of control over the reproductive capacities of certain populations is deeply rooted in a constant struggle to “purify itself”. She argues that “control over women’s reproductive abilities and destruction of women and children are essential to destroying a people” (p. 124). In its attempt to purge itself of undesirable populations the state does not bestow the right to bodily integrity upon low-income women of color (p. 124).

A primary example of the way in which the state attempts to purify itself is the instance of Native American women. Recall that the Hyde Amendment prevents native women who are dependent upon the Indian Health Services organization to provide healthcare from exercising the option of coverage for an abortion, but they do have the option to be sterilized. Smith argues that “Native women in particular, whose ability to reproduce stands in the way of the continued conquest of Native lands, threatens the continued success of colonization” (2002, p. 123). In other words, the denial of funding for abortions of Native American women is part of a larger process of colonization. Surely, the government does not explicitly pronounce its intent to ensure there are no Native Americans left to make claims to their lands, but a legacy of colonialism informs the law in ways that perpetuate the extermination of Native peoples. <Choice>, as derived from <liberty> provides a justification for the continued process of purifying the public.

Indeed, for McGee one of the primary functions of ideographs is to mask and excuse such attempts by the state. For him, the implication ideographs present are that their existence “warrants the use of power, excuses behavior and belief which might otherwise be perceived as eccentric or antisocial, and guides behavior and belief into channels easily recognized by a community as acceptable and laudable” (McGee, 1980a p. 15). Choice does exactly this by lulling the populous into thinking that women have been empowered through control of their own reproduction when in fact choice as a liberty interest is precisely the justification for denying particular populations control over their bodies. The American public would not normally stand for the coerced sterilization or denial of rights to entire populations, but the “era of choice” provides not only a justification but political cover for such actions because they are diametrically opposed to the alleged idea content of “choice” that is promoted and widely assumed by Pro-Choice Advocates. This distinction between choice as a vehicle for the empowerment of women and choice as a mask and justification for the extermination of populations is what McGee called the difference between its “alleged idea content” and “concrete history as usages”. Because the “right to choose” is expressly a negative right, choice is the justification for the constitutionality of funding bans. This is precisely how ideographs operate to excuse behaviors that might not otherwise be acceptable.

If rhetorical critics are to provide openings for those who are suppressed by ideology as Sonja Foss suggests then communication scholars must inject their findings into the public consciousness. In the instance of the politics of <choice>, communication studies of this nature may contribute to further theorizing in other fields. Here, the inability of the ideograph of choice to compensate for the needs of all women

and indeed the violence it inflicts upon populations, including those whose rights are foreclosed because of their status as dependents upon the state calls for posing broader questions of feminist theorizing. If choice is the culmination of feminist theorizing about reproductive rights, it certainly needs to be rethought. Angela Hooten has suggested that “the movement needs to digest critiques of the term “choice” that are based on the historical experiences of poor women of color” (2005 p. 83) in order to construct a feminism that can account for the needs of all women. Further research might direct itself in a manner that contributes directly to feminist scholarship.

Continued ideographical criticism in this manner can contribute to mapping the synchronic relationships among ideologies. If in this instance, <choice> finds itself linked with other ideographs such as <liberty>, there may be a great potential for research to broaden its analysis to uncover infinite relationships among seemingly disparate ideographs.

### **Methodological Implications**

There are two primary implications this analysis reveals about the method of ideographical criticism. First, this analysis reveals how problematic it is to separate diachronic structure from synchronic usages of ideographs. Simultaneously, this work also underscores the importance of ideographic analysis particularly, in assessing the coherence of legal concepts.

If diachronic structure refers to the development of ideographs over time, and synchronic relationships refer to the ways in which ideographs are connected and associated with other ideographs in their rhetorical manifestations or usages. In the process of this ideographic criticism of <choice> it has been difficult to separate these

two notions of ideographic usages, diachronic and synchronic from each other. Because <choice> emerges diachronically from the court's articulation of a right to privacy, its diachronic emergence is directly associated with its synchronic relationship to <privacy>. Simultaneously, privacy, much like <choice> exists because of a synchronic relationship articulated between <privacy> and <liberty>. Were it not for these synchronic relationships, the diachronic emergence of the ideograph of <choice> would be virtually impossible. Indeed, it seems that because ideographs are as McGee suggests "Each ideograph is thus connected to all others as brain cells are linked by synapses, synchronically in one context at one specific moment" (McGee, 1980, p. 16). While McGee suggests that we investigate ideographs in isolation, <choice> in particular is a difficult ideograph to isolate from others. Its significance rests in the synchronic relationship(s) <choice> shares with other ideographs.

This finding, that diachronic emergence, and synchronic relationships are difficult to separate from one another for the purposes of ideographic analysis leads one to question exactly how McGee envisioned this analysis proceeding. An ideographic criticism of <choice> in legal and pro-choice rhetoric reveals the extent to which the relationships between ideographs contribute to the meaning and limitations of ideographs themselves. This study reveals the ways in which the connection between <choice> and <liberty> provides a basis for the exclusion of particular populations from the ability to avail themselves of the right to choose. As such, <choice> is incapable to fulfilling its alleged idea content of ensuring all women have the right to choose. The relationship between <choice> and <liberty> allows the government to subjectively inject value determinations into the law that severely undercut the choices available to women. As

such <choice> becomes a hollow ideal, incapable to preserving the very rights it sets out to preserve while simultaneously operating as a justification for its own denial.

Certainly, ideographic criticism such as this is useful in investigating legal concepts such as rights. And, indeed, the conclusions brought forth from this particular analysis of <choice>, particularly that <choice> is incapable of maintaining the legal right to an abortion because of its close relationship with <liberty> would be impossible to see without investigating the synchronic relationships among and between ideographs. As a result, ideographic analysis is perhaps the only way for one to see the legal limitations of legal ideals. In this respect, ideographic criticism has the capacity to play an essential role in understanding constitutional debates.

### **Conclusion**

This work arose as a personal investigation of feminism, and particularly the ability of <choice> as a feminist idea to transcend the multiple identity divides that exist within feminist populations. This work began with great hope, that particular issues, like <choice> might have the capability of overcoming that, which separates feminists in their attempts to overcome the oppression and domination of populations. In its enactment, this ideographic criticism reveals that not only is <choice> as a feminist ideal incapable of bridging these divides, but it further reveals the inability of <choice> to maintain itself as a legal doctrine to protect a woman's ability to obtain an abortion. It is foreseeable that in the future, courts will limit a woman's right to choose based upon their interpretation of <liberty> as a right to be free from governmental interference.

This work further reveals that not only is <choice> an unsustainable ideal, it serves as a false ideal for feminist movements and organizations. Because adherence to

<choice> as an ideal obscures the abject lack of choices so many women face, continued assertion of <choice> as an ideal that represents all women is doomed to alienate those who cannot materially identify with <choice>.

Finally, this work underscores the importance of ideographic criticism in revealing that which is concealed by abstract ideals. Ideographic criticism can play an incredibly important role in understanding the ideals that underpin our societal constructs and beliefs.

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