Concreteness and Contraception: Beauvoir's *Second Sex* and the Affordable Care Act

Katie Lane Kirkland

Abstract: In this paper, I analyze Simone de Beauvoir's goals for women expressed in *The Second Sex* and compare these goals to the opportunities created by the Affordable Care Act's contraceptive mandate. Though the contraceptive mandate advances Beauvoir's goal of concrete equality by supporting economic independence and recognizing women's sexual freedom, there are social and political limitations to these advancements.

In this paper, I argue that The Affordable Care Act's contraceptive mandate advances Simone de Beauvoir's goal of concrete equality because it creates real opportunities for women's self-determination by supporting economic independence and recognizing sexual freedom.

In her well-known book *The Second Sex,* Beauvoir locates the socio-cultural causes of women's subjugation and prescribes actions for advancing women's emancipation.[1] Beauvoir focuses primarily on the economic and social barriers to women's liberty, especially regarding "concrete equality."[2] Beauvoir's concept of concrete liberty is contrasted with her concept of abstract or theoretical liberties. Beauvoir speaks of women's suffrage and the abandonment of the expected "wifely duty" of obedience as theoretical liberties, while she speaks of economic independence as a necessary condition for concrete equality.[3] For Beauvoir, political recognition alone is not sufficient for guaranteeing women's freedom. Beauvoir's goal for women is with "the fortunes of the individual as defined not in terms of happiness but in terms of liberty."[4]

Beauvoir's rejection of happiness as the goal for women's situation is related to her adoption of the Hegelian concept of becoming. Beauvoir rejects happiness because "happiness consists in being at rest," and Beauvoir believes the proper role of the subject is active: "he [or she] achieves liberty only through a *continual reaching*

[1] Simone de Beauvoir, *The Second Sex,* trans. and ed. H.M. Parshley (New York: Knopf, 1953).
[2] Ibid., xxxii.
[3] Ibid., 679.
[4] Ibid., xxix.

out toward other liberties" (emphasis added).[5] Accordingly, Beauvoir asserts that, while many women are content with their dependent situations, they are being denied the opportunity to transcend themselves and their situations in the search for true being.

Beauvoir's emphasis on becoming (as opposed to being) and liberty (as opposed to happiness) is at the core of her text and her concept of concreteness stems from these issues. For Beauvoir, woman is only free when she is "concretely equal" to man, and economic independence is a crucial factor of woman's concrete liberty. Beauvoir denounces economic dependence because it allows a woman to accept the identity that her male supporter defines for her and it denies her the opportunity to create her own identity through meaningful subjective action and existence. Beauvoir advocates for economic independence because it releases women from the "feminine destiny" of financial dependence and marriage, and also because employment gives woman the opportunity to discover and define her own subjective meaning.

In her chapter on "The Independent Woman," Beauvoir points to the actress as an example of the liberated woman because her work is meaningful to her and gives her an opportunity for self-fulfillment: "Their great advantage is that their professional successes…contribute to their sexual valuation; in their self-realization, their validation of themselves as human beings, they find self-fulfillment as women."[6] For Beauvoir, what is most important is securing woman's freedom to create herself and her own existential meaning. Only those opportunities that foster these goals are considered concrete.

The no cost-sharing coverage of contraception mandated by the Affordable Care Act [ACA] provides the concrete opportunity of economic independence by increasing women's access to birth control in addition to helping women avoid the financial, social, and professional costs of unplanned pregnancy. Studies show that cost-sharing reduces the likelihood that Americans—particularly women—will use preventive health services.[7] Thus, a Health and Human Services Department report suggests that cost-sharing for preventive services such as mammograms, pap smears—and even contraception—represents an economic burden for women: "While

[5] Ibid., xxviii.
[6] Ibid., 703.
[7] "Affordable Care Act Rules on Expanding Access to Preventive Services for Women," U.S. Department of Health and Human Services, last modified June 28, 2013, http://www.hhs.gov/healthcare/facts/factsheets/2011/08/womensprevention08012011a.html.

women are more likely to need preventive healthcare services, they often have less ability to pay. On average, they have lower incomes than men and a greater share of their income is consumed by out-of-pocket health costs."[8]

Eliminating the out-of-pocket cost of birth control increases the likelihood that sexually active women will use it. Though the out-of-pocket cost of birth control has been a deterrent to women in the past, the cost of having and raising a child is dramatically higher—certainly enough to financially cripple an unprepared couple, let alone a single young woman.[9] Thus, the real economic opportunity created by the contraceptive mandate is the ability to avoid the potential financial devastation of an unplanned pregnancy. While the financial burdens of unplanned pregnancy are detrimental to a woman's economic freedom, the risk of unplanned pregnancy and its economic costliness also presents an obstacle to her sexual freedom.

Beauvoir asserts that even economically independent women still are not concretely equal to men because they are unable to exercise their sexuality with the same degree of freedom. While women's sexual freedom may sound like an obviously worthwhile goal, it is certainly worth closer examination to determine whether it truly creates a concrete opportunity for meaningful subjective action. Though Beauvoir does not explicitly justify her emphasis on sexual freedom, one could argue that it stems from her desire to liberate women from the social necessity of marriage. The value of women's sexual freedom, however, goes beyond this freedom from marriage. Social expectations prevent women from making sexual advances, actions which are supposedly men's territory. However, sexually liberated women have an opportunity to act as sexual subjects rather than being treated as men's sexual objects. Though Beauvoir does not make this connection in order to show the concrete liberties created by sexual freedom, she does discuss the sexual inequalities created by social norms. Beauvoir focuses primarily on expected gender roles as they relate to the "feminine ideal," an identity that women did not create or choose but one that they are expected to accept willingly.

---

[8] Ibid.

[9] While the average cost of birth control is between $5 and $50 per month, the average out-of-pocket cost of giving birth in a hospital (with no complications) is around $3,400. In addition to the cost of childbirth, the average yearly cost of raising a child is $13,630. Cf. Elizabeth Rosenthal, "American Way of Birth, Costliest in the World," *New York Times*, June 30, 2013, http://www.nytimes.com/2013/07/01/health/American-way-of-birth-costliest-in-the-world.html?pagewanted=all&_r=0 and "Expenditures on Children by Families, 2012," U.S. Department of Agriculture, August 2013, iv.

Beauvoir is interested in a woman's ability to have sex free from the chains of marriage and pregnancy. Beauvoir would likely support the ACA's contraceptive mandate insofar as it creates concrete opportunities for women, particularly in the area of sexual liberation. The most obvious obstacle that would be removed by contraception is the risk of unwanted pregnancy: "however careful she may be, the woman is never wholly protected against the danger of conception."[10] Contraception was not easily available in Beauvoir's society, which is why she does not discuss it extensively in the text. "In England and America and some other countries a woman can at least decline maternity at will, thanks to contraceptive techniques. We have seen that in France she is often driven to painful and costly abortions."[11]

Though Beauvoir does not treat "the danger of conception" as the main obstacle to women's sexual freedom, safeguarding women from this danger is still important to Beauvoir's goal of concrete equality because she views motherhood, particularly unplanned motherhood, as a threat to a woman's professional success and therefore her economic independence: "having a child is enough to paralyze a woman's activity entirely."[12] The financial stresses of unplanned pregnancy are staggering, but the paralysis goes far beyond monetary issues. Beauvoir suggests that it is difficult, if not impossible, for a single woman to be a mother and have a successful career. Because of this dilemma, many feminist thinkers since Beauvoir have denounced motherhood as a major cause of women's social subordination.

In an article detailing feminist ideas about reproductive rights before and after the development of assisted reproductive technologies, Gerda Neyer and Laura Bernardi claim that, beginning with Beauvoir, many feminists have called for a total rejection of motherhood as the only means of eliminating discrimination: "the mainstream feminist discourse up to the mid-1980s took a critical approach to motherhood and regarded the rejection of motherhood as a prerequisite for overcoming women's subordination and for gaining equality."[13] Although it is true that Beauvoir argues that many women are restricted by society's definition of "the feminine destiny," which regards becoming a wife and mother as woman's proper goal, she does not advocate for a total rejection of motherhood as Neyer and Bernardi suggest.

---

[10] Beauvoir, *The Second Sex*, 687.
[11] Ibid., 696.
[12] Ibid., 697.
[13] Gerda Neyer and Laura Bernardi, "Feminist Perspectives on Motherhood and Reproduction," *Historical Social Research* 36, no. 2 (2011): 164-65.

Even though Beauvoir does not ask all women to reject motherhood completely, she does acknowledge the fact that many anti-feminists have discriminated against women because of their reproductive capabilities. Shulamith Firestone picks up this thread, totally rejecting the notion of sexual difference.[14] Beauvoir's proposed solution to this issue is less radical than Firestone's. Beauvoir suggests that society must acknowledge a woman's right to refuse motherhood and must accept feminine sexuality divorced from the function of reproduction. Contraception is an important factor in recognizing a woman's right to control her own sexuality and reproductive abilities: "in England and America and some other countries *a woman can at least decline maternity at will*, thanks to contraceptive techniques" (emphasis added).[15] Beyond preventing unwanted pregnancy, contraception represents a woman's control over her body and reproduction. A society that gives women access to birth control is a society in which lawmakers recognize a woman's sexuality apart from her reproductive functions. Therefore, not only does the contraceptive mandate of the ACA make birth control available to every woman, but it also represents acceptance of the fact that women can and do have sex without the intention of conceiving a child.

While it is clear that the contraceptive mandate of the ACA is based on recognition of the reality that women engage in sexual activity without the goal of reproduction, the law does not necessarily reflect all of public opinion. While the availability of contraception makes it biologically possible for women to have sex without conceiving, it does not guarantee that unmarried women can have sex without social repercussions. The resistance of several religious institutions represents a large and powerful part of American society that refuse to recognize women as sexual beings apart from their reproductive abilities. Even the language of the Institute of Medicine's report on recommended women's health services reflects the persistence of the idea that woman's destiny is to become a wife and mother: "[recommended services include] contraceptive education, counseling, methods, and services so that women can better avoid unwanted pregnancies and *space their pregnancies to promote optimal birth outcomes*" (emphasis

[14] Shulamith Firestone, *The Dialectic of Sex: The Case for Feminist Revolution* (New York: William Morrow, 1970), 8.
[15] Beauvoir, *The Second Sex*, 696.

added).[16] This phrase is reminiscent of the Enlightenment ideal of Republican motherhood, where women were expected to express their patriotism by birthing and raising good American citizens. The assertion that contraception is important for "optimizing birth outcomes" suggests that, even though a woman has the right to decide *when* she bears children, reproduction is still regarded as one of a woman's social responsibilities.

While the ACA's contraceptive mandate secures women's access to contraception and recognizes a woman's right to control her own reproduction, these advances toward women's sexual freedom do not achieve full sexual equality. Although the law recognizes woman's freedom to exercise her sexuality without the goal of reproducing, American society as a whole still does not accept women's sexuality, as demonstrated by the resistance to the contraceptive mandate. Even the wording of some of the government reports regarding women's preventive health suggests a continuation of the belief that women have an obligation to reproduce.[17] Additionally, because of a lack of health literacy and access to healthcare, many women in impoverished communities may be unaware of the new opportunities created by the Affordable Care Act. These women are in a position to benefit greatly from the contraceptive mandate, though they may currently be least aware of these new services. Furthermore, because several states have refused to expand Medicaid, women in poor communities may not even have the opportunity to benefit from the services mandated by the Affordable Care Act.

Though these social factors present various obstacles to complete concrete equality, the increased availability of contraceptives mandated by the Affordable Care Act does in fact constitute a concrete opportunity for Beauvoir. While Beauvoir's expressed goal for women in *The Second Sex* is concrete equality between men and women, Beauvoir does not suggest that this goal can ever be perfectly accomplished. In fact, one could argue that Beauvoir does not expect or intend for society to view equality as a definite, static, achievable goal because Beauvoir believes that each individual should constantly be working toward self-actualization and improvement. Although there is still work to be done to improve social attitudes and perceptions, the Affordable Care Act

[16] Institute of Medicine of the National Academies, *Clinical Preventive Services for Women: Closing the Gaps*, (Washington, D.C.: The National Academies Press, 2006).
[17] Ibid.

creates several concrete opportunities for women that did not exist previously, and, therefore, it should be seen as a significant advance in the direction of concrete equality.