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The Creation and Evolution of a “Right to Choose” in the 1960s and 1970s

After the Supreme Court’s *Griswold v. Connecticut* (1965) decision legalized married couples’ birth control use, many family planning advocates began to frame access to birth control as a human right that should be affirmatively protected by the state. They framed this as the “right to choose” how many children to have, and they pushed for the federal government to establish family planning programs for poor women who, they argued, were denied their rights because they could not afford private physicians. Policymakers explicitly framed all federal government programs funding family planning services as fully voluntary, enabling participants’ “right to choose” when to have children, and this framing was crucial to the passage of major family planning legislation in 1970. Then, in the early 1970s, supporters of legalized abortion began to use the language of the “right to choose,” arguing that the right to make a decision about when to bear children logically had to encompass the right to terminate a pregnancy. They clashed, though, with many birth control advocates who did not support abortion rights and who thought the “right to choose” ended at the moment of conception. This paper examines the development of the language and meaning of the “right to choose” first in debates about birth control in the 1960s, and then in abortion advocacy in the 1970s. I show that abortion-rights activists made use of an existing discourse about the reproductive “right to choose”, forcing some early supporters of that right to re-evaluate how far they believed the right extended.

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**“Migrating Citizens, Migrating Rights:
The World that *Shapiro v. Thompson* (1969) Made”**

When the Supreme Court struck down welfare residency requirements in *Shapiro v. Thompson* (1969), lawyers for the plaintiffs celebrated one of their first victories on what they hoped would be the road to establishing a right to welfare. By limiting welfare eligibility to people who had resided in the state for a year or more, welfare residency laws had been a much-criticized restriction on benefits. But proponents of welfare rights were not the laws' only critics. Like the Elizabethan-era poor laws which were their antecedents, welfare residency laws were used by state and local governments to regulate the in-migration of the poor. In the 1960s, a number of state legislatures passed stricter residency requirements as a response to the influx of poor African Americans from the rural south—thinking that denying newcomers access to welfare would either discourage them from coming in the first place or encourage them to leave once they had arrived. Thus, civil libertarians and social reformers concerned with the right to migrate also criticized the laws. By the late 1960s, policymakers on both the left and right were coming to see any restrictions on movement as anathema—not only for violating a constitutional right to travel but also for handicapping national economic growth (growth which, policymakers agreed, was predicated on the free movement of goods and people). As this paper will argue, *Shapiro* was the product of this new thinking about the benefits of migration and the rights of migrants. *Shapiro*, in turn, forced legal services attorneys, social workers, and officials in local, state, and federal governments to reconsider how welfare policies affected migration and how a new national policy on migration might require different welfare policies.