

MATERNAL INTEGRITY AND THE FETAL IMAGE: ULTRASOUND IN THE ABORTION RIGHTS DEBATE

ELIZABETH MAIER-BALOUGH

“The spectacle cannot be understood either as a deliberate distraction of the visual world or as a product of the technology of the mass dissemination of images. It is far better viewed as a *weltanschauung* that has been actualized, translated into the material realm—a world view transformed into an objective force.”

—Guy Debord

The industrial-flaw detector, a machine mechanics and engineers use to test the quality of a metal without destroying it, acquired a novel role in the 1950s when a Scottish professor of midwifery applied the machine’s probe to a patient’s abdomen and visualized the pelvic mass with objectivity that standard palpation could not muster. After years of experiments with the innovation, the obstetric ultrasound was born, allowing doctors and patients to see through the barrier of the patient’s flesh to unveil “a body within a body . . . a developing fetus within a womb” (Tansey i). The procedure of imaging the fetus has since become standard in modern obstetric care for reasons both medical and cultural (Taylor 17). Part of the ultrasound’s initial broad social appeal had to do with its capacity to “increase a woman’s awareness of the fetus,” which in turn had a positive influence on the pregnant woman’s compliance with prenatal care (Taylor 19; Fletcher 392). More specifically, “since images are apparently thought to make more of an impression upon women’s minds than words (of explanation, advice, or persuasion), it has become possible to understand ‘psychological benefits’ as a medical side effect of obstetrical ultrasound” (Taylor 20). The technology, first used to test the integrity of industrial structures, now makes visible the physical *and maternal* integrity of the pregnant woman.

To consider improved prenatal care a “psychological benefit” of ultrasound implies that a woman is insufficiently aware of the salient qualities of a fetus (specifically, her fetus) without an ultrasound. This assumption has played an important role in the development of informed consent standards for induced abortion. Particularly, the 1992 Supreme Court ruling in *Planned Parenthood v. Casey* permitted a regulatory framework that has deeply influenced standards of consent. In *Casey*, the court upheld several provisions of a Pennsylvania statute that imposed restrictions upon women seeking an abortion. The act specified that a woman must be provided with precise information at least one day before the procedure. If a minor, she must obtain parental consent, and if married, must inform her husband of her choice. Additionally, the law

restricted the situational judgment of abortion providers. The court, while admitting that “our obligation is to define the liberty of all, not mandate our own moral code,” found that most of the provisions were constitutional so long as their burdens upon the pregnant woman were in balance with “the State’s profound interest in potential life” (505 U.S. 833). Consistent with the notion that a woman’s knowledge of the nature of gestation is somehow lacking, the court reasoned that “though the woman has a right to choose to terminate or continue her pregnancy before viability, it does not at all follow that the State is prohibited from taking steps to ensure that this choice is thoughtful and informed” (505 U.S. 833).

The legal and ethical doctrine of informed consent encourages persons undergoing medical procedures to make an “evaluative choice of which of the available courses of actions is better or best” (Savulescu 17). Information about the procedure ought to “enable an understanding of the true nature of the actions in question and their consequences” (17). While informed consent standards for abortion vary by state, the obstetric ultrasound is frequently a consideration. At present, fourteen states regulate ultrasound access in facilities that provide abortions (Guttmacher 1). Of these, Alabama, Mississippi, and Louisiana require that all women seeking an abortion undergo an ultrasound and be offered the opportunity to view the image. Two other states share this provision once the pregnancy has reached the second trimester. The remaining require that the abortion provider offer the woman a chance to see the images only in cases in which an ultrasound is medically indicated, or upon her request (1). As lawyer Charles Trense notes in *Law and Psychology Review*, the requirements are considered “in keeping with the regulatory framework approved of in Casey,” because they provide the woman with information about the nature of the fetus (231). Since the “impact on the fetus is ‘relevant, if not dispositive,’ to the decision,” it is conceivable to Trense that “a pregnant woman would want to view the fetus as it currently existed before deciding the impact of terminating its existence” (237).

What does the inclusion of fetal imaging in the informed consent process mean for those whom the provisions are intended to protect, namely, women seeking abortions? Images have become the criterion of truth in modernity. Accordingly, they have the power to change one’s perception of reality. As author Susan Sontag points out in her essay “Looking at War,” “photographs... are themselves a species of rhetoric. They reiterate. They simplify. They agitate. They create the illusion of consensus” (82). To illustrate, Sontag examines images of “mangled bodies of adults and children” that represent the consequences of armed conflict, reflecting that “they show how war evacuates, shatters, breaks apart, levels the built world” (82). They also persuade. The abortion debate is a social war, and its outcome is a function of the consensus as to when life begins. The images appropriated by those who seek to excoriate abortion via the sonogram do just the opposite of what Sontag’s images do. They show intact bodies of embryos and fetuses. They show that what the physician evacuates from the uterus is whole, continuous, preparing for membership in the “built world.” This

rhetoric effectively changes the way the viewer, particularly the pregnant woman, perceives herself and her status as either an individual or as an incubator of future life. The images attempt to persuade in favor of one “version of reality” or another, in favor of fetal personhood at either conception, or viability, or birth (Hopkins 395). Depending on the reading, the image potentially pits the rights of the mother against the rights of the fetus. Is such a task the domain of an informed consent protocol?

Charles Trense is not alone in his view that the sonogram persuades in favor of fetal rights. For instance, Stuart Cambell, developer of the three- and four- dimensional obstetric ultrasound that has made possible unprecedented views of the maternal body, has admitted an agenda beyond providing expectant families with the opportunity to bond with their future child before birth (Savell 106). Campaigning in England for a narrower timeframe during which a woman may choose to abort, Campbell has declared that the fetal features and behavior he has witnessed through ultrasound have caused him to “believe we have no right to be killing the foetus that is capable of them” (107). If the ultrasound removes a barrier to the pregnant woman’s understanding of the consequences of her actions, it may also influence the intuitions of others who view the images. The ultrasound makes us all privy to the intimate events of gestation. Trense articulates the conclusion of those who believe that the fetal image does confirm fetal personhood when he contends that “those who seek an abortion may be so moved by the deeply personal, revealing experience afforded by sonogram imagery” that not only will they choose to carry the fetus to term, they may also advocate for more widespread access to the technology (240). Indeed, he feels that “a sonogram requirement” (note that he is speaking of the *requirement*, not simply the sonogram) “equips a woman with the tools to make her own decision as to when life begins” (240).

In opposition to the sonogram requirement, the Guttmacher Institute, a research group focused on global reproductive health, notes that “routine ultrasound is not considered medically necessary as a component of first-trimester abortion” (1). As such, “the requirements appear to be a veiled attempt to personify the fetus and dissuade a woman from obtaining an abortion” (1). The kind of information the ultrasound purportedly conveys—evidence of the physical, anthropomorphic features of the fetus—is arguably an appeal to social instincts. Specifically, it is an appeal to the social expectations for maternal behavior—behavior motivated by emotions and instincts—and thus, it actually precludes the opportunity for logical assessment, the very sort of reasoning informed consent is meant to foster.

Scholars have actively considered how ultrasound is used as a social practice as much as it is used a source of medical information. In particular, medical sociologist and professor of psychology Nick Hopkins has carried out extensive research on collective social behavior surrounding pregnancy. Analyzing the use of emotional rhetoric in abortion politics, he proposes that “the categorization of the fetus is dependent upon the significance attributed to the similarities and differences between

fetuses and persons” (402). In other words, the recognition (or lack of recognition) of human features either bolsters or reduces the perceived reality of fetal personhood. Further, studies of ultrasound procedures in planned pregnancies suggest that the ultrasound image is not informative in itself, but rather is imbued with meaning through societal expectations and the social activity of creating a family (Hopkins 396; Savell 106). The image’s meaning “is not straightforward or given, but is a product of the viewing practices through which [it] is consumed” (Hopkins 395). In this way, fetal personhood is, as Valerie Hartouni states, “not a ‘property’ that can or will be ‘discovered’ with greater scientific knowledge or increased technological capabilities, but is produced in and through the very practices that claim merely to ‘reveal’ it” (qtd. in Hopkins 395). Conclusions about personhood may hinge on objective facts that the sonogram makes evident, but the inferences drawn from these facts and the analysis of their significance are inseparable from the emotionally and socially charged context through which the information is read.

Certainly, not everyone views fetal personhood as a matter of social consensus. Those who favor including ultrasound in the informed consent process suggest that the individual woman should “make her own decision as to when life begins” (Trense 240). However, the very suggestion admits that the empirical signal of a life’s commencement is determined ad hoc, or is at least unclear. Anti-abortion rhetoric asserts that authoritative, medical tools prove fetal personhood. Religious and metaphysical arguments, having not achieved the desired prohibition of abortion, are “superseded by the objective claims of science” (Boucher 9). In other words, the strongest claims in this emotional debate will be objective ones, and if there is truth to the privileged ontological status of the fetus, it will have to be proven in scientific terms through medical technology. Proponents of moralizing sonograms attempt to make the authority of science work in collusion with the accessibility of the image to persuade the woman and society that the “baby” the woman hosts has a right to life. Medical imagery buttresses the logic of fetal personhood. After all, “a photograph is supposed not to evoke but to show” (Sontag 90).

The jump from impartial science to the social privileges of the fetus finds articulation in a pro-life pamphlet that accuses physicians of “violating a woman’s right to know what is going on inside her body when they turn the screen away during a scan of her unborn child” (Hopkins 401). Notice the way the biological facts of gestation, “what is going on inside her body,” are neatly juxtaposed with the socialization of the fetus, replaced here with the “unborn child.” The pamphlet concludes that “the mother should be encouraged to face reality” (401). But whose reality? Surely, the one constructed by those members of society already persuaded of the fetus’ personhood.

Parallel to this image-based condemnation of abortion, Sontag considers the arguments exchanged by a pair of anti-war correspondents regarding photographs of wounded soldiers and civilians. The pair have no personal stakes in the conflict the

images portray, and are consequently able to view the images merely as generic violence, not violence for a cause. Like this pair who “dismiss politics” in order to call all armed conflict an “abomination,” proponents of moralizing sonograms too make sweeping, dismissive judgments about the propriety of terminating a pregnancy. Both Sontag’s pair and these anti-abortion activists base their reasoning on similar assumptions about images. While the “grisly photographs” that Sontag’s correspondents study “confirm an opinion already held in common” (82), the grainy images of the sonogram confirm pro-life beliefs in those who already possess them. Confirmation is not argument, and it contributes nothing useful to a woman’s ability to make an informed evaluation of her unplanned pregnancy.

Used to construct “versions of reality” that will provide a basis from which to make informed choices, medical imaging shares features with journalistic photography. Looking at visual documentation of suffering, Sontag questions the impartiality of the image, pointing out that “to photograph is to frame, to frame is to exclude” (90). To this phenomenon, the ultrasound introduces a new layer of complexity. As persuasive “evidence,” the framing of the sonogram goes beyond the content of the image itself, straight into the context in which the image is viewed. Just as photographs bear “witness to the real, since a person had been there to take them” (87), it seems that a crucial step in authenticating the fetal image is the mother’s real-time gaze. Further, as the ultrasound is performed in the medical context, the image is colored with meaning and narrative from the perspective of the ultrasound technician or physician. Beyond these superficial surroundings, the woman considering aborting her fetus is embedded in her own, unique narrative, her own perception of reality.

For informed consent, consideration of one’s own context is pivotal. Sontag notes that to accept photographs of war as an absolute invective against war itself, one would have to conceive of conflict as “generic” and in so doing, blind oneself to the particulars of a given incident (82). Likewise, to focus on the similarity of every fetus to a newborn is to distort the gravity of every woman’s peculiar situation and motivation to obtain an abortion. The unequivocal rendering of the fetus as a fully-fledged member of humankind is complicated by the divisive nature of abortion activism. Martha Nussbaum, in an essay exploring the ethical implications of local as opposed to universal compassion, makes clear the dangers of dismissing details of particular situations or failing to properly imagine the circumstances of others. Even the most admirable ethical agendas can be “not only narrow, failing to include the distant, but also polarizing, dividing the world into an ‘us’ and ‘them’” (Nussbaum 13). The argument against abortion (as constructed around fetal imagery purportedly establishing fetal personhood) makes two such contradictory demands. First, it demands a universal scope in order to defend the contents of every woman’s womb as a member of society. Secondly, it necessitates the adoption of a narrow view that dichotomously categorizes people as either against abortion or for it, as either maternal or murderous. This is analogous to Sontag’s observation that images of war can be

used to rally a combatant nation in cases where the audience is “sure that right is on one side, oppression and injustice on the other, and that the fighting must go on” (82). Only with a blurry and unspecified negotiation of the line between axiomatic and contextual thinking can the fetal image be viewed as relevant to the moral decision the woman must make. Suddenly, there is not information, but right and wrong, victims and perpetrators.

The proponents of ultrasound requirements seem to have anticipated this inconsistency and accounted for it surreptitiously. One must wonder at the use of ultrasound in informed consent when clear, accessible images of fetal development are so ubiquitous. Is there some special magic in seeing, in particular, *your* fetus as opposed to a generic fetus? If seeing the image is meant to impart some objectively verified, metaphysical truth about the life within, why pull out the ultrasound machine for every pregnancy rather than referring to stock images? If the intention behind displaying the sonogram is to allow women to make an informed choice as to “when life begins,” why not distribute biology textbooks? Perhaps the ultrasound sympathizers recognize that generalization of fetal liveliness incurs the problem Nussbaum describes as “watery motivation” in which “the intensity of care” one feels toward her kin “will simply not materialize,” being spread too thin (20). For this reason, it becomes necessary to insist upon revealing the contents of the particular woman’s womb. But this is not an act of providing information as to when life begins. This is constructing war between mother and fetus and taking a side, destroying the woman’s inner world, sense of reality, and sense of self as anything besides the enemy of the other.

Is it possible, then, that viewing the sonogram actually deprives the woman of some deliberative faculty? Then again, is it possible to avoid this deprivation? In some sense, the social pressure to behave appropriately with respect to an emotional stimulus undermines our ability to maintain our own sense of reality. Take, for instance, the case Nussbaum presents in which boys raised in cultures of male dominance and projected invulnerability “don’t have the language to describe their own inner worlds and are by the same token clumsy interpreters of the emotions and inner lives of others” (24). Arguably, women surrender the ability to articulate reasoning following from their “inner lives” when confronted with the expectation to sentimentalize the universal fetus. But to think that a socially conditioned response to an image that brings no relevant information to a decision represents an autonomous choice is to nullify the meaning of informed consent altogether. As Sontag asks, “are we better for seeing these images? Do they actually teach us anything? Don’t they rather just confirm what we already know (or want to know)?” (95). Nussbaum might offer a response, observing that “tragic dramas can’t precisely teach anything new since they will be moving only to people who at some level already understand how bad these predicaments are” (26). If anyone understands the predicament, it is the woman faced with the choice of terminating her pregnancy. Thinking otherwise constitutes a gross act of paternalism.

Sontag entertains the idea that “the vast maw of modernity has chewed up reality and spat the whole mess out as images” (97). Yet she acknowledges that to make such an assessment is to “assume that everyone is a spectator,” a conclusion that removes the stakes, loyalties, and life from any difficult decision (97). According to Sontag, this is a luxury not many can afford, and especially not in the context of informed consent. In his account of what an informed consent process ought to accomplish, philosopher Julian Savulescu emphasizes that “if information is important, so too is a degree of . . . rationality to draw correct inferences from these facts” (17). This kind of invested reflection is impossible for someone reduced to the role of a mere spectator of images. In order to understand and rationalize what her choice means for her, a woman needs a firm, self-determined grasp on the reality of her situation. This grasp is constructed through words and explanations, not tacit messages transmitted by images. The images do not speak for themselves. Rather, the worldviews of disapproving parties speak through them, impinging upon the very right that informed consent aims to protect.

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