10. THE SILENT SCREAM: A NEW, CONCLUSIVE ARGUMENT AGAINST ABORTION?*

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ABSTRACT. The Silent Scream, a videotape which includes footage of a real time sonogram of an abortion in progress, has been receiving considerable attention in America as the anti-abortion movement’s latest argument. The tape has been enthusiastically endorsed by President Reagan and has been distributed to every member of Congress and to each of the Supreme Court justices. It is produced and narrated by Bernard N. Nathanson, a practicing obstetrician and gynecologist, and it includes a number of implicit and explicit claims which are highly controversial. Chief among these are: (1) the claim that since we can draw no morally significant line during the stages of fetal development, the fetus must be recognized as a person from conception onward, (2) the claim that the film is a high tech, state of the art proof that abortion is the brutal murder of an innocent human being, (3) the claim that in abortion the fetus experiences terror and pain, and (4) the claim that as long as abortion is legal, showing this film (or one relevantly similar) must be made part of the informed consent procedure for abortion. My purpose in this paper is to examine these claims to see if The Silent Scream adds anything to the moral case for making abortion illegal. I give particular attention to two claims which are seldom addressed in the abortion debate, viz., that the fetus experiences terror and pain during an abortion, and that women have not had the information they need (but which this film provides) to give an adequately informed consent to abortion. Since there is so much confusion in the abortion debate, and since this film trades on that confusion, my broader purpose is to add some clarification to the public discussion of this issue, which is daily becoming a more divisive issue of public policy.

The Silent Scream, a videotape which includes footage of a real time sonogram of an abortion in progress, has been receiving considerable attention in the United States as the pro-life movement’s latest argument against abortion.1 The film has been applauded by President Reagan, and copies have been distributed to every member of Congress and to each of the Supreme Court justices. The 28-minute tape is produced and narrated by Bernard N. Nathanson, M.D., who helped to found the National Abortion Rights Action League in 1969, and who presided over some 68,000 abortions before becoming a militant opponent
of abortion. The tape takes its name from one scene where Nathanson points to an area of the sonogram, telling his viewers that they are seeing the mouth of the fetus opening in a silent scream as the abortion proceeds. The presentation is carefully constructed to leave the viewer with a genuine sense of horror of abortion; and Nathanson's shifts between dispassionate and passionate narration are skillfully designed to persuade the viewer that he or she is witnessing in the sonogram a scientific demonstration of the brutal and agonizing dismemberment of a tiny human infant. My purpose in this paper is to understand what, if anything, Nathanson's audio-visual presentation adds to the pro-life case against elective abortion. Since the tape is not yet in wide circulation, however, a sketch of what it contains seems in order first.

SEGMENTS IN THE TAPE

Before turning to the sonogram, Nathanson gives the viewer a short course in fetal development, exhibiting plastic models of the fetus in utero from the early stages through 28 weeks. The viewer is then referred to Williams’ Obstetrics (1980), where it is pointed out that our new technologies now allow practitioners of obstetrics and gynecology to treat the fetus as a second patient. Nathanson interprets this to assert that the fetus is the practitioner's second patient, and he points out that it is morally impermissible for the physician to destroy his patients. Next, Nathanson carefully shows, names, and describes the function of each of the instruments used in suction abortion. After an equally dispassionate and precise (but accessible) explanation of the ultrasound equipment, we see some footage of a suction abortion in progress, which makes it quite clear that this is a rough, undignified, bloody business.

Next comes the sonogram itself, which (with Nathanson's running commentary) is the centerpiece of the tape. I shall return to this in some detail shortly.

The sonogram is followed by a segment on abortion in America as a $500-600,000,000-a-year industry, which is falling more and more steadily into the hands of the crime syndicate. This segment is particularly skillfully presented. It begins with upbeat music and footage of the exteriors of clean and friendly-looking suburban abortion clinics. But suddenly, the scene shifts to stills of the remains of aborted fetuses. The background music simultaneously drops—from cheerful to eerie. Just as quickly, we are shifted back again to familiar scenes and light-hearted music. These shifts occur several times in the segment, while Nathanson's narration calmly continues through it all.

In the penultimate segment, we again see Nathanson in his office, where he argues that women have been victimized by abortion:

Women have not been told the true nature of the unborn child. They have not been shown the true facts of what an abortion really is. Women in increasing numbers . . . even tens of thousands, have had their wombs perforated, infected, destroyed. Women have been sterilized and castrated, all as a result of an operation of which they have had no knowledge.
Nathanson then insists that getting a genuinely informed consent for an abortion requires showing women his tape:

This film and others which may follow like it, must be made a part of the informed consent for any woman before she submits herself to a procedure of this sort.\(^3\)

Nathanson then goes on to accuse

... the National Abortion Rights Action League, Planned Parenthood, and all its co-conspirators in the abortion industry of a consistent conspiracy of silence--of keeping women in the dark with regard to the nature of abortion.\(^4\)

In the final segment, we find Nathanson in a lovely garden where he confesses to having directed the largest abortion clinic in the Western world, and where he tells us that

We now have a science, which is known as fetology, which has allowed us to study the human fetus. And all of those studies have concluded that the unborn child is a human being, indistinguishable from any of us, and an integral part of our human community.

This echoes part of Nathanson's lesson on fetal development, where he has told the viewer

Now this little person at twelve weeks is a fully formed, absolutely identifiable human being. He has had brain waves for at least six weeks; his heart has been functioning for perhaps eight weeks, and all the rest of his human functions are indistinguishable from any of ours [emphasis in inflection].

That Nathanson means for the sonogram to be taken to provide a scientific demonstration of the personhood of the fetus is clear throughout the tape, as well as in a discussion with Jerry Falwell and Cal Thomas following the first (and only, so far as I know) complete showing of the tape on American national television.\(^5\) In that discussion, he asserts that talk about (women's) rights is simply tired rhetoric from the 1960's, and that his film presents

data and proof of the 1980's. This is a state of the art, high-tech document, which is politically neutral, scientifically impeccable, and ultimately irrefutable.

And in response to Cal Thomas' asking whether the question, "What is a person?" can be answered "scientifically/medically", Nathanson says,

... of course we now know through technologies like ultrasound that life is a continuum; that as you track it back from the ninth month of prenatality, back to conception, that there is not one single dramatic event or milestone ... where we can say 'This is a person, and it wasn't one before that' ... There's no bar mitzvah in the uterus; it's just one long, seamless continuum.
This in turn echoes another part of Nathanson's lesson on fetal development, where Nathanson has told the viewer

As you can see, there is no revolutionary or dramatic change in the form or in the substance of this person throughout this developmental stage.

I shall return to these claims shortly. Let me turn first to the sonogram itself, since it is the sonogram which Nathanson suggests provides the conclusive "high-tech" "state-of-the-art" argument against abortion.

THE SONOGRAM

Nathanson tells us that

Now, for the first time, we have the technology to see abortion from the victim's vantage point . . . For the first time we are going to watch a child being torn apart, dismembered, disarticulated, crushed, and destroyed by the unfeeling steel instruments of the abortionist.6

It should be pointed out here that Nathanson's language throughout the tape subtly assumes the moral judgments he wants his viewers to share. The fetus, for example, is consistently referred to as 'a/the/this child', while the physician performing the abortion in the sonogram is referred to as 'the abortionist'. 'Physician' is used only when Nathanson tells us that the physician who performed the abortion in the film was deeply upset during the editing session, and has since given up performing abortions.

The images on the sonogram are difficult for the inexperienced layman to make out; but Nathanson helps the viewer by tracing the figure of the fetus, and by constantly following the various motions of the fetus and the tip of the suction tube. As he helps the viewer to see what is what in the sonogram, however, Nathanson repeatedly holds a plastic model of a fetus up to the sonogram. The model is coherent in size with the images of the fetus in the sonogram, and although its physical characteristics are those of a fetus at twelve weeks, the model itself is the size of a fetus four or five times larger than a fetus at twelve weeks, which is roughly 3.5 inches long. That is, the model's overall size is that of an 18-20 week-old fetus. Nathanson, however, never points this out.

As the sonogram begins, Nathanson tells us that the fetal heart rate is 140, that "the child is moving serenely in the uterus", that it is sucking its thumb, " . . . moving gently in its sanctuary". As the suction tube passes into the uterus, Nathanson says,

You will note that as the suction tip . . . moves toward the child, the child will rear away from it and undergo much more violent, much more aggravated movements. The child is now moving in a much more purposeful manner . . . . It is rearing here again [emphasis in inflection].

There is then a still frame of the sonogram, and Nathanson says,
Once again, we see the child’s mouth wide open in a silent scream.

Nathanson then turns full face to the camera, and emphasizes that

This is the silent scream of a child threatened imminently with extinction [emphasis in inflection].

We are then told that the fetal heart rate has increased dramatically (to 200), and that

... the child’s movements are violent at this point. It does sense aggression in its sanctuary. It is moving away. One can see it moving to the left side of the uterus in an attempt, a pathetic attempt, to escape the inexorable instruments which the abortionist is using to extinguish its life... There is no question that this child senses the most mortal danger imaginable.

It is then pointed out that "The body is now being torn from the head," then that the abortionist is using the polyp forceps to seek and crush the head so that the head and its contents can be removed from the uterus. Finally, Nathanson tells us, slowly, sadly, and accompanied by soft, melancholy music that

Now all we see remaining are simply the shards, the broken fragments, the pieces of tissue which document that there was once a living, defenseless, tiny human being here.

SIGNIFICANT CLAIMS IN THE TAPE

The question I want to ask is what, if anything, Nathanson’s tape adds to the standard pro-life arguments against the moral permissibility of abortion. There are a number of claims made implicitly or explicitly in the tape. The most philosophically significant ones are: (1) that since we can draw no morally significant line during the stages of fetal development, the fetus is a person (i.e., a full member of the moral community) from conception; (2) that science has now irrefutably shown that the fetus is a person; and, more particularly, that this film proves that abortion is the brutal murder of an innocent human person; (3) that the fetus experiences terror and pain in abortion; (4) that women who do not view this tape (or one relevantly like it) cannot give an adequately informed consent to abortion.

I shall not focus on the first contention, since it is not new to the abortion debate, and has already been adequately addressed. That is, this is the familiar logical wedge argument, which holds that if we cannot draw a line showing that things on one side of that line are radically different in some morally relevant way from things on the other side of that line, then we cannot be justified in treating things on different sides of the line in radically different ways. In the abortion debate, this argument asserts that since we cannot draw a "bright line" anywhere along the continuum of human development, we must hold that the fetus is a person (i.e., a rights bearer) with a right to life just as strong as yours and mine, and is this from the moment of conception.
But the problem with arguments of this structure is that they rule out too much, disallowing, for example, withholding important civil rights until a certain age, since people just before that age are not radically different from people who have reached that age. The logical wedge requires that we must give the five year old the right to vote, the six year old a right to drink. But acceptable lines can be drawn by finding a non-arbitrary range and then choosing some arbitrary point within that range for placement of the line.7

I shall not focus on the second contention either, since it either assumes the wedge argument, or is just another instance of the profound conceptual confusion between questions of scientific discovery and questions of moral judgment which has been such an intractable part of the abortion debate. The mistake here involves a confusion of categories. That is, it involves thinking that the question of the personhood of the fetus (i.e., the question of whether the human fetus is to be recognized as a bearer of fundamental moral rights comparable to the rights of adult human beings) is a matter of scientific discovery rather than a matter of moral decision. Nathanson seems to be an intelligent man; thus one must wonder at his seeming so profoundly confused on this point. For surely he must know that it is simply not true, as he claims, that the so-called science of fetology (or any science at all) can demonstrate that a fetus is a person. And he also must know that it is not true, as he claims it is, that all of the studies in so-called fetology "have concluded that the unborn child is a human being (by which Nathanson obviously means a bearer of fundamental moral rights comparable to yours and mine"), indistinguishable from any of us and an integral part of our human community". This is not in any way a scientific conclusion; it is a moral judgment. At most, what "fetology" can show us is that human fetuses share with us certain as yet incompletely developed physical characteristics. As for mental characteristics, "fetology" only shows that we, as developed human beings, share these far more fully with mature members (or even immature members) of other species. Of itself, "fetology" cannot demonstrate that fetuses are persons, since, again, the question of personhood is not a scientific one, and it is hard to believe that Nathanson is sincerely muddled on this point. But, again, I shall not belabor this point, since it is territory that has already been well covered in general and in the context of the abortion debate in particular.8

I want, then, to focus on the two other contentions I have isolated, viz., the contention that the fetus experiences terror and pain in abortion, and the contention that as long as abortion remains a legal option, this film must be shown to women who seek abortions if we are to be confident that they give a genuinely informed consent to abortion.9

THE ARGUMENT FROM MENTAL AND PHYSICAL PAIN

Nathanson's evidence for the explicit claim that the fetus experiences fear and the implicit contention that the fetus experiences excruciating physical pain in abortion consists in the gross and fine movements of the fetus in the sonogram, i.e., in the change we see from "serene" motion to "violent" motion, and the opening of the fetus' mouth in the purported silent scream. But Nathanson's interpretation of the gross movements of the fetus completely ignore the fact that those movements take place when the physician is attempting to break into the placenta
with the tip of the suction tube, which is a plastic instrument with a rounded end. The fetus, of course, floats in an amniotic sac. Thrusts against the exterior of that sac will cause the sac's contents to move away from the area of the thrusts; and, depending on the force of the thrusts, the movements of the contents will be more or less "violent". The movements Nathanson interprets as "purposeful", as the child "rearing", are quite obviously to be explained in terms of the thrusts against the placental wall, i.e., the unsuccessful attempts to break through the placental wall with the tip of the suction tube. I do not mean to claim merely that Nathanson has not justified his interpretation of the gross movements of the fetus in the sonogram. I mean to make the stronger claim that simply viewing the sonogram should be sufficient to convince anyone viewing the sonogram objectively that the movements in question are clearly a result of the physical displacement of the placental contents, including the fetus. The suction tube flashes at the lower right of the screen, followed by the fetus moving "violently" to the upper left. Contrary to what Nathanson claims, then, the gross fetal movements he makes so much of seem quite obviously not to be purposeful at all.

Nathanson's interpretation of the fetus' facial movement as a scream of terror is equally unjustified (if not fully conclusively to be explained on other grounds). By nine or ten weeks, the fetus is capable of swallowing, squinting, and a variety of local reflexes, as well as moving spontaneously. Even a late stage first trimester fetus, for all its quite marvelous developing physical complexity (and for all its physical resemblance to human persons), is not yet capable of functioning in a very complex way neurologically. Nathanson's account of the fetus' gross and fine movements appeals strongly to the emotion of fear. But given the relatively low level of mental development at this point (Nathanson's claims that fetology now shows that human fetuses are indistinguishable in every way from us notwithstanding), it is more than a little unlikely that fetuses (or even young infants) are sufficiently neurologically developed to have emotions like fear. What is more, even if we were to allow that a fetus might move (grossly or finely) in response to some stimulus, and even if we were to further allow that a fetus might move in a self-protective way, nothing about fear (and certainly nothing about personhood) follows. Animals like clams (or even microscopic, single-celled animals) will respond to stimuli in self-protective ways (e.g., by "clamming up", by withdrawing). But we know (and Nathanson must also know) that it would be inexcusably anthropocentric to attribute emotions to them.

Nathanson's implicit suggestions that the fetus experiences excruciating pain on dismemberment is open to precisely the same objection. Every surgeon and anesthesiologist knows that one can render a subject insentient without eliminating the physical impulses which the conscious brain can interpret as pain. Unless sufficient anesthesia (or a muscle relaxant) is administered to a surgical subject, an unconscious subject will respond to stimuli by jumping, withdrawing, etc., even though the subject is not conscious, and hence, cannot interpret the physical impulses as pain. Given the relatively rudimentary mental development of fetuses, and the fact that the period of fetal development, (like periods under anesthesia) is lost to us in memory, the possibility that fetuses have the mental capacity to interpret physical impulses as what we know as pain is a logical one, but not a significant empirical one.
I do not, however, want to pass too quickly over this point. Nathanson's tape does raise the question of fetal sentience (i.e., the capacity of the fetus to experience pain), a question which, surprisingly, has received little attention in the philosophical literature on abortion. L.W. Sumner is an exception in this regard. Sumner suggests that the onset of sentience falls somewhere in the second trimester, when the basic structures of the brain are relatively complete. But even if we allow that some capacity for pain or otherwise unpleasant experience emerges during the second trimester of fetal development, it seems clear that that capacity would be rudimentary, in part because the nerves that transmit the impulses associated with pleasure and pain are routed through the cerebral cortex, which is not fully functioning in the fetus. Even Sumner allows that when sentience emerges, it is not a sudden emergence from unconsciousness to a full-blown capacity, and that the fetus has little practical use for a full blown capacity of sentience, since it cannot, for the most part, either seek pleasurable experiences or avoid painful ones. If the fetus has a capacity for experiencing pain by (say) the middle of the second trimester, it seems that that capacity, like other mental capacities, will be primitive, i.e., not a fully developed capacity like ours. Given all this, what shall we say about Nathanson's audio-visual argument from sentience?

The first thing to notice is that even if we allow that a rudimentary capacity for the experience of pain does emerge during the second trimester, the fetus in Nathanson's sonogram (at 12 weeks) is not yet sentient. Further, even if we were to allow that the sonogram fetus is sentient, younger fetuses are surely not. Giving Nathanson the very best benefits of charitable doubt, his sonogram fails to tell in any way against early abortion. Thus, there is nothing whatever in the sonogram to support the real position that the pro-life movement wants this tape to compel others to accept, viz., that all abortion (for reasons less than self-defense) is morally impermissible.

What is more, even if we were to allow that the fetus in the sonogram is a being that can experience pain (both mental and physical pain), to conclude on the basis of this that abortion is morally wrong (and so wrong that it should be outlawed) would be anomalous. After all, we permit the infliction of pain (mental and physical pain) on sentient creatures all the time. Have we thought, for example, that the fear and pain of sentient creatures is sufficiently morally repugnant to make fishing, hunting, and trapping illegal? Perhaps we should, but we have certainly not; and so much not that fishermen, hunters, and trappers are perfectly comfortable putting the fruits of their exploits on their den walls.

Further, if the fear and pain of sentient creatures tell against the moral permissibility of abortion, they tell equally against the moral permissibility of experimentation on animals which involves the protracted imposition of pain. And the same must hold true of the pain imposed on animals we raise for food and use in the development and production of products for the cosmetic industry.

If we grant that the infliction of pain on a sentient being is sufficient to make (at least some) abortion morally impermissible, consistency will commit us to ruling out the far more prolonged pain we constantly allow to be imposed on uncontroversially sentient non-human animals. If they are to avoid hypocrisy, those who are convinced of
Nathanson's argument from sentience must cast their net of moral effort far wider than the effort to outlaw abortion. Moral consistency requires that proponents of Nathanson's argument from sentience strive (perhaps even more militantly) for the elimination of the imposition of so much suffering on sentient non-human animals, which is so often inflicted for the most trivial of reasons.

I find these implications for our treatment of non-human animals and for the moral consistency of those who accept Nathanson's argument from sentience the most interesting and most powerful implications of the sonogram. Alas, for the pro-life movement, however, the strongest implication the sonogram as interpreted by Nathanson has for abortion is just that if abortion at a certain stage involves the unavoidable imposition of fear and physical pain, then that is a reason for holding it to be wrong at that stage. There is, however, an additional consideration here.

That consideration, of course, is that sometimes the imposition of pain can be justified. That is, the fact that an action involves inflicting pain is not necessarily sufficient to make that action morally impermissible. Under certain circumstances, inflicting or allowing the infliction of pain may be morally unavoidable because the stronger moral right of another sentient being takes priority. It should go without saying that the imposition of pain on a sentient being (be it mental or physical pain, or be it a human or non-human being) always requires a moral justification. If it is the case that abortion at a certain stage does involve inflicting pain on a sentient being, it, too, requires justification. But Nathanson's "argument" does not show that the fetus is a person or even a sentient being suffering pain. On the contrary, it takes its apparent force from assuming that the fetus is a person with exactly the same rights not to have pain imposed on it as you and I have and from assuming that the fetus has exactly the same capacities to suffer that you and I have. But these are precisely the assumptions which cry out for justification. What is more, even if we could satisfy members of the pro-life movement that abortion is painless (either by demonstrating conclusively that the fetus does not experience genuine pain, or [say] by finding a way of introducing general anesthesia into the fetus), they would hardly then conclude that abortion is morally permissible.

Nathanson's argument from fetal pain, far from being "scientifically impeccable", is then, profoundly scientifically suspect; and even if we allow him that rudimentary sentience develops during the second trimester, either more follows from the argument than most who call themselves 'pro-life' want to accept, or virtually nothing follows about the moral impermissibility of abortion.

THE ARGUMENT FROM INFORMED CONSENT

Let me turn, finally, to Nathanson's demand that this tape and/or others relevantly like it be shown to women to ensure informed consent to abortion. Given the current complexion of the United States Supreme Court, such a requirement would surely be found unconstitutional. AKRON V. A KRON CENTER FOR REPRODUCTIVE HEALTH, INC. is a good indication of this, since Akron's (Ohio) ordinance requiring that specific statements be made to women seeking abortion was found unconstitutional. It is important to note, however, that Justice Sandra Day
O'Connor dissented from the judgment, with Justices Byron White and William Rehnquist joining. Part of O'Connor's dissent opens the door to requiring something like Nathanson's film, since the film is certainly designed to discourage abortion, and it is likely to be effective in this regard for many women who see it.

O'Connor writes:

We must always be mindful that "[t]he Constitution does not compel a state to fine-tune its statutes so as to encourage or facilitate abortions. To the contrary, state action 'encouraging childbirth except in the most urgent circumstances' is 'rationally related to the legitimate government objective of protecting potential life'. HARRIS v. McRAE, 448 U.S., at 325 . . . "15

Given the high probability of the complexion of the Supreme Court changing under the Reagan Administration to include justices with views on abortion like O'Connor's, we must take seriously the possibility that requiring a film like this as part of the informed consent to abortion is a real one.16

To return to the tape: Nathanson offers no clear argument for his demand that this film or one relevantly like it be made part of the informed consent process for abortion. Is the problem that women are not told the risks to themselves that accompany abortion? If this is the problem, then Nathanson is right to demand that women be informed of these risks. But even if it were universally true that women have been systematically deprived of appropriate information regarding the risks associated with abortion (which is not true), surely it is not necessary that women see this film or any film like it or any film at all to be adequately informed of the relevant risks of abortion. Nathanson's demand is obviously a demand that women be given some other information before having an abortion—information that only his film (or films relevantly like it) can provide. Just what information might that be?

It certainly cannot be that the film demonstrates that fetuses are persons, since that, as I have already pointed out, is just not the kind of thing that such a film can demonstrate. Perhaps the information is that fetuses suffer fear and pain during an abortion. But we have also seen that there is nothing in the film itself that provides evidence for this. What the film gives us is Nathanson's interpretation of the fetal movements in the sonogram; what is needed and precisely what the film fails to provide is evidence for that interpretation. Indeed, it is quite clear that the point the sonogram is supposed by Nathanson to establish (viz., that abortion is the brutal killing of an innocent, defenseless person) is already assumed by Nathanson's very interpretation of the fetal movement in the sonogram, as well as by his language throughout the tape.

The real information the videotape offers which is universally lacking in obtaining informed consent for abortion consists in two things: (1) Nathanson's views on the moral status of the fetus, and (2) the pictorial information in the film, including somewhat graphic footage of a suction abortion, and extremely graphic stills of the remains of aborted fetuses. There is certainly no more good reason for forcing women to hear Bernard Nathanson's views on the moral status of the fe-
But what about forcing women to look at the sonogram, the suction apparatus at work, and the mutilated bodies of aborted fetuses? Do we need to require that women look at these images in order to give a genuinely informed consent to abortion?

Years ago, in an article which is genuinely (and appropriately) sympathetic to the pro-life position, Roger Wertheimer suggested that if wombs were transparent, or if women could pluck their fetuses out of their wombs to be fondled and seen, many who favor elective abortion might find themselves thinking quite differently about abortion. I believe Wertheimer is right about that, i.e., that we could expect that people in general would have a greater interest in individual developing fetuses than they now have. But what would follow from this for the moral acceptability of abortion? Actually, nothing. We might well see a change in our interest in and affection for hitherto hidden fetuses, as well as a deeper sense of regret on losing them. But this increase in regret would not entail that we must conclude that elective abortion cannot be morally justified. We might well find a similar increase in regret about aborting kitten fetuses if feline wombs were transparent. But that would not force us to conclude that aborting kitten fetuses could not be morally justified. If wombs were transparent (human wombs or feline wombs) we would just be more likely to say that the choice of abortion is the sorry one of picking the lesser of two evils. Seeing the kinds of depictions Nathanson’s tape includes, then, is indeed likely to make abortion a harder, sorrier choice for a woman. But the fact that depictions of aborted fetuses can inspire horror, repulsion, and a deep sense of sorrow does not entail that abortion is morally impermissible. Showing such depictions is just likely to make justifiable, if sad, choices more difficult to make—and, for some, too difficult to make. Which, of course, is precisely why members of the pro-life movement want this tape universally shown to women seeking abortion as long as abortion remains a legal option.

It needs to be pointed out, too, that Nathanson’s demand is an odd one (at best) when we think of getting informed consent for other surgical procedures, e.g., the amputation of a limb. Do we think it necessary to show the potential amputee what the procedure will look like in all its bloody reality in order to ensure informed consent to the surgery? Would anyone seriously suggest that a person cannot give an adequately informed consent to amputation unless he sees a recently amputated limb displayed, or thrown in an operating theater trash can? Certainly not. Indeed, we would think that any physician who imposed such images on a patient was clearly not fit to practice medicine—that the imposition of such images would be ghoulish, the product of some incomprehensible fiendishness. Why, then, would anyone think that women seeking abortions should have imposed on them depictions of the procedure in all its bloody reality and depictions of the mangled products of abortion?

The response, of course, is that fetuses are not like limbs; they are persons, and women should be forced to look at the moral mayhem they bring about in having an abortion, so that they will realize that
what they do in abortion is hire an assassin to brutally destroy an innocent person. But, again, it is Nathanson's film which is itself supposed to demonstrate as a "state-of-the-art" "high-tech" "proof" that human fetuses are persons; and, again, we have seen that it does not do that and cannot do that.

Suction abortion is bloody. But open heart surgery is bloodier still. The remains of aborted fetuses are a tragic sight. But the sight of wounded soldiers in a mash unit is also tragic. And the sights of animals recently slaughtered and butchered for food and of animals suffering protracted pain in laboratories are tragic as well, as are the sights of obviously sentient children battered by parents. All these sights bespeak evil in the world. But we need to ask carefully which evils we must simply never permit, and which evils we must, however reluctantly, permit in order to prevent greater evils. Merely pointing out that something is evil or tragic is just not enough.

No one believes that abortion is intrinsically good or desirable. And anyone who has thought carefully and sensitively about abortion but continues to favor abortion as an option is completely willing to agree that abortion is, in itself, undesirable, to be avoided, and that it always involves the sacrifice of something of value. Indeed, abortion always involves the sacrifice of a living being, which, let us be clear about it, is undeniably human. But though many who are pro-choice do not believe that a human fetus is to be equated with a diseased or useless limb, virtually everyone who is in favor of retaining the option of abortion will agree that the analogy to amputation has its point; it is always preferable to not have to decide whether to have the procedure. But once confronted with the choice, it is often reasonable to opt for the procedure as the lesser of two evils.

The argument from informed consent, then, also fails to strengthen the case against abortion, since whatever force it might have rests on the moral and empirical assumptions which go undefended in the tape. Lacking persuasive justifications for those assumptions, getting an adequately informed consent to abortion must remain comparable to getting an adequately informed consent to any other surgical procedure, and adding depictions like those in Nathanson's film must be considered as ghoulish, inappropriate, and plainly morally wrong as they would be in the informed consent process for any other surgical procedure.

CONCLUSION

Bernard Nathanson's audio-visual argument against abortion, for all its apparent eloquence and for all the enthusiasm it has generated in the pro-life movement, fails to add anything of genuine significance to the abortion debate. The tape, for the kinds of reasons I have outlined, will not convince those who are reflectively pro-choice (or in the middle, or on the fence) of the absolute wrongness of abortion. And if the purported problem of pain in abortion is nonexistent, or at best minor, those who are pro-life will hardly conclude that abortion is morally permissible. And that is just because those who are committed to the pro-life position have never held that abortion is wrong because it involves fetal pain (or because women have not been giving adequately informed consents to abortion). What we have in Nathanson's tape is simply another example of the profound confusions in argumentation that have
become so evident, yet are so recalcitrant, in the abortion debate. Those who call themselves 'pro-life' think that abortion is wrong, not because it involves the imposition of pain, and/or some lack of informed consent, but because they believe that human fetuses are innocent persons—beings with a moral right to life as strong as yours and mine—that cannot be killed for reasons less than self-defense. Indeed, that is the very reason why so many who call themselves 'pro-life' are unwilling to tolerate the pain Nathanson’s tape suggests the fetus endures, yet why so often the same people are indifferent to or willing to tolerate the pain we routinely impose on non-human animals for the most trivial reasons.

What The Silent Scream attempts to add to the anti-abortion argument, then, muddles the pro-life position by suggesting that the moral wrongness of abortion is rooted in fetal pain or in the absence of informed consent. In the final analysis, the tape’s attempted supplements to the case against abortion detract from and dilute the purity of the pro-life position, which is, plainly and simply, that even if we can take the lives of human fetuses painlessly, and even if women give fully informed consents to abortion, elective abortion is morally intolerable, and simply should not be permitted.

ENDNOTES

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1 American Portrait Films; California Federal Building; Suite 500 Anaheim, CA 92801. I should mention at the outset that both tags in the abortion debate, 'pro-life' and 'pro-choice', are unfortunate. The tag 'pro-life' is particularly distorting, since it suggests that those who do not agree with the positions of those who want to abolish the option of abortion as it exists in this country are "anti-life". In order to avoid the connotations associated with conservatism and liberalism and the cluster of hostilities so often accompanying those connotations, perhaps we would do better to stop using 'pro-life' (and its cognates) and adopt 'abolitionist' (and its cognates) to refer to persons/arguments (etc.) supporting abolition of the abortion option, and to stop using 'pro-choice' (and its cognates) and adopt 'retentionist' (and its cognates) to refer to persons/arguments (etc.) supporting retention of the abortion option. 'Pro-life' and 'pro-choice' language is deeply entrenched at this point, however, so I shall just note my discomfort with it and move on, adopting it for the purposes of this paper in order to avoid distraction.

2 It is not made clear why models through full term are not included in this segment.

3 Nathanson is currently preparing a second tape on, he says, "another technical aspect of abortion". (Interview; see note 9.)

4 I trust I need not point out the association suggested here between organizations which support the abortion option and organized crime.

5 Jerry Falwell Live, 17 February 1985 (Turner Broadcasting).
6 Not that it matters for Nathanson's point, but in fact, the only instrument which comes into contact with the fetus is the tip of the plastic suction tube.


9 In the discussion with Falwell and Thomas, Nathanson (inadvertently?) softens this contention by saying that this film or another like it, must be made part of the informed consent process for abortion.


11 Sumner, in Feinberg, 86-7.


13 As far as I understand this, it is not possible to ensure by anesthesia that a fetus is not conscious without subjecting the woman to the dangers associated with general anesthesia.

14 Akron, Ohio, Ordinance No. 160-1978 ("Regulation of Abortion"), Section 1870.06. Four other provisions of the ordinance were also held to be unconstitutional.

15 103 S.Ct. 2481, 76 L.Ed.2d 687 (1983), emphasis added.

16 On selecting anti-abortion candidates for the Supreme Court, see, e.g., Elizabeth Olson, UPI, 17 February 1985. Olson reports that Edward Schmults, who until recently was deputy attorney general, said a candidate's views on [ROE v. WADE] could be asked as part of the process to evaluate nominees for a vacancy on the nation's highest court. "We might well ask about a case like ROE v. WADE, that will bring out a candidate's view [on abortion]," Schmults said. . . . With five of the Supreme Court's nine justices at least 75 years old,
President Reagan may make and how that will reshape the high court.


18 This is another intractable confusion in the abortion debate. The question is not whether the fetus is a human being. It is obviously a human being; it is a being and it is human (i.e., it is not feline or bovine or canine, etc.). To ask whether the fetus is a human being (or to ask when life begins) is to couch the question in terms which suggest that a very clever biologist (or "fetologist") can resolve the problem of abortion for us. This, again, is to profoundly confuse scientific questions with moral ones. We need to be absolutely clear that the question which concerns us is whether it is wrong to end the lives of human beings at this stage of their development (for reasons less morally weighty than self-defense).

19 The evils in competition, of course, are the loss of the fetus as against (1) the loss of self-direction of the woman who, without the choice of abortion, would be forced to bear an exquisitely intimate burden or to find (if she can afford it) someone to perform an illegal abortion, with all that entails, as well as (2) the problems associated with bringing unwanted children into the world. But I shall not retread this well-worn ground.

20 There is, however, generally considerable inconsistency involved in holding that abortion only in cases of self-defense should be permissible. For if our public policy is to recognize that the fetus is genuinely an innocent person, then its threat to a woman's life is an innocent threat, and the state can have no legitimate reason for preferring the life of the woman to the life of the fetus. If the fetus has precisely the same moral status as the woman (at least in regard to the right to life), the state must, as a matter of fairness to the fetus, do nothing that would involve it in giving the woman an unfair advantage over the fetus. And this seems to entail that the state should not permit the use of technologically advanced institutions or the use of medical specialists which give the woman an unfair advantage in this battle for life between moral equals. The argument from self-defense, then, seems to entail far greater restrictions on abortion than even the most fervent anti-abortionists tend to want to allow, Mr. Reagan and Reverend Falwell among them. If anti-abortionists want to allow abortions in cases where the woman's life is at stake, then they must realize that implicit in their position is the view that the woman and the fetus are not of equal moral stature, after all. For a nicely detailed discussion of the assumptions and implications of the view that will allow abortion only in self-defense, see Nancy Davis, "Abortion and Self-Defense", Philosophy and Public Affairs 13:3 (1984): 175-207.