

Abortion, Ultrasound, and Moral Persuasion

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1. Introduction

In times of angry, polarized public debate, it seems natural to call for greater mutual understanding. We should all just stop and *listen* to one another, shouldn't we? We should be open-minded and willing to consider the sincere moral convictions of others. These aspirations can seem obvious, even trite. But what do they really amount to?

This paper articulates a moral obligation to make ourselves open to moral persuasion. Making oneself open in this way, I will argue, is essential to respect for the moral agency of other persons. Yet this claim is not as easily agreeable as it might seem. To explore it fully, I apply the general obligation to disagreement about abortion, one of the most intense contemporary moral debates. The implications, I will show, are far from trite. I will argue that the obligation to be open to moral persuasion implies, at least sometimes, that a woman seeking abortion has a moral obligation to view ultrasound images of her fetus as a means of making herself open to moral persuasion.

Some readers will find this conclusion repellent. So do I. This paper is not animated by moral opposition to abortion. Rather, I focus on the topic precisely because it is so morally and politically fraught, because it can seem so difficult to acknowledge that the "other" side has any point at all. Any worthwhile theory of moral persuasion needs to do more than issue agreeable generalities of comity and respect. It must still make sense even when the stakes are high, even when we do not *want* to be persuaded. Consider this paper a stress test for the value of moral persuasion. It will be relatively easy to agree with the general theory I sketch in the next section. If you can still accept it after I trace the less palatable implications in later sections, then you will know that the theory comes about its public-spiritedness honestly.

Structurally, the paper has four parts. First, I will argue for the general obligation to be open to moral persuasion. Second, I will show that abortion decisions fall under the general obligation; I will address concerns about the particular features of abortion — including vulnerability and intimacy — that might seem to generate exception to the

general obligation. Third, I will argue that the particular act of viewing a fetal ultrasound is one way of being open to moral persuasion.

These premises together imply *at most* that a woman seeking an abortion ought to view fetal ultrasound images, and do so with an open mind. They do *not* imply that a woman then ought to reach any particular conclusion. Nor do they imply that recent laws compelling the viewing of ultrasound images are justified. In the final section, I will argue that such laws are incompatible with the grounds of moral persuasion.

2. The obligation to be open to moral persuasion

2.1 Moral persuasion

As I will use the term, moral persuasion is the attempt by one individual to get another to change her views on some moral matter, by means of sincerely providing reasons. It is important to emphasize two elements of this definition: first, moral persuasion aims at a *change in views* (rather than merely behavior) and, second, it aims at changing views *by the particular means of providing reasons*. Persuasion is distinctively *not* the use of any verbal means (such as pressure or specious rhetoric) to induce a change in behavior. We can see these elements at work by considering examples.

Suppose that Alana and Bradley have just suffered through very poor service at a restaurant. They disagree about whether they ought (morally speaking) to leave their waiter a tip. In Bradley's view, they are morally justified in leaving no tip at all, though in Alana's view they ought to leave something. Since they have asked for separate checks, Alana's contribution isn't affected by Bradley. She just sincerely believes that putting in a tip is the right thing to do, and she cares whether Bradley does it.

Here are some different ways the scenario might continue:

COERCION. Alana whispers quietly: "There is a pistol in my hand, under the table. Put in a tip, or you'll get a slug right in the stomach."

In COERCION, Alana doesn't care whether or not Bradley changes his views on the rightfulness of tipping. All she cares about is that he *does* the right thing (even if for the wrong reasons).

TESTIMONY. Alana says, "I just think that people ought to tip even if the service is poor."

In TESTIMONY, Alana merely *reports* her moral view. She does not make any threats. Suppose Alana is known to be a very easy-going, forgiving sort of person. She has her moral opinions, but she won't hold a transgression against you very long. If that's all known to Bradley, then in TESTIMONY he won't understand Alana's comment as a social inducement akin to COERCION. And yet obviously Alana said it for a purpose — she hopes her comment will have some effect on Bradley. Perhaps she hopes that he will treat her as a source of moral guidance, such that the mere reporting of her opinion will sway him. In any case, Alana aims for her remark to have some impact on Bradley's views, not just his behavior. But she hasn't given any reasons.

PERSUASION. Alana says, "I think people ought to tip even if the service is poor. Waiters are paid very little; their salaries are set on the assumption that they will have tips. Also, you can't know why the service was poor; maybe the chef made mistakes, and the waiter really did the best possible."

In PERSUASION, Alana aims to bring about a change in Bradley's view (not merely his behavior), and she aims to do so *by means of providing reasons*. She would like Bradley to reflect on the points she has made, and she hopes that when he considers them seriously, he will reject his previous view on the permissibility of not tipping. PERSUASION differs from COERCION in that it matters to Alana that Bradley's

views, and not merely his behavior, change, and it also differs from TESTIMONY in that Alana gives reasons, rather than merely reporting her own views.

So far I've said nothing meant to be controversial or surprising. But these cases illustrate the varieties of ways in which one person can influence another's moral views.¹

2.2 Openness to moral persuasion

Having clarified moral persuasion, I turn now to the concept of "being open" to moral persuasion. Consider further Alana's attempt to persuade Bradley to leave a tip. She offered reasons: that waiters rely on tips for their livelihood, that poor service might not be the waiter's fault. She hopes that Bradley will reconsider his moral views in light of her remarks. Let's pick up the story from just after she has spoken, and consider various ways it might continue:

IGNORE. Bradley says nothing, but quietly counts out the cash, leaving exactly enough to cover the bill — no tip. Alana can tell that he heard her.

REBUFF. Bradley narrows his eyes and says, "Mind your own business, Alana! You can do what you want with your check, but mine is up to me!" He does not leave a tip.

DISAGREE. Bradley shrugs and says, "I get what you're saying. But I think we just disagree here." He does not leave a tip.

1. It is interesting that 'persuasion' has dropped out of central philosophical analysis of moral practice. For an example of its earlier importance, see Charles L. Stevenson, *Ethics and Language* (New Haven, CT: Yale University Press, 1944). I do not here endorse Stevenson's non-cognitivist theory of the mechanism of persuasion.

GIVE IN. Bradley shakes his head and grumbles, "I think that's rubbish, Alana. But, fine, if it will make you happy...." He throws a small amount of extra cash onto the table.

ARGUE. Bradley says, "Okay, but lots of people have jobs where their income depends on their performance. And lots of people have jobs where mistakes by their colleagues can cost them income. What's special about waiters?" He waits for a reply from Alana.

ACCEPT. Bradley thinks for a moment, then says, "I guess I hadn't thought about that. You're right." He leaves a small tip.

In which of these cases is Bradley *open to* moral persuasion? Clearly in ACCEPT — he seems to have understood the reasons Alana offered and revised his views as a result. Also, I think, clearly in ARGUE: Although Bradley has not changed his views, he has *engaged* with the reasons Alana offered. Being *open to* persuasion is a matter of engaging with persuasive reasons, not necessarily accepting them. I'll say more about this later.

Just as obviously, Bradley is *not* open to persuasion in IGNORE or REBUFF. He makes clear he is not taking seriously the possibility of changing his views on account of the reasons Alana offered. There is a further question whether Bradley could be *justified* in reacting to Alana in these ways, which I'll return to later.

The middle cases are less clear and more interesting. In DISAGREE, Bradley says that he understands the reasons Alana offers, but he has not done anything to indicate serious engagement with them. I think that the case as described is indeterminate — Bradley's words and actions alone don't tell us whether he is open to persuasion. Perhaps he did seriously consider Alana's reasons, but he sincerely thinks he can guess how she would respond to a rejoinder, and that he would not be

convinced by it. If all that is the case, then it is possible to see Bradley as *open* to persuasion — he has simply simulated the outcome of that openness in his own mind. What this case shows is that we cannot always read openness to persuasion directly from words and actions.²

Finally, GIVE IN provides an unusual case, where Bradley does what Alana wants him to do — he leaves a tip — but not as a result of engaging with the reasons she has offered. It seems here as if Bradley misunderstands what Alana is trying to do: rather than taking her offering of reasons sincerely, Bradley reacts as if Alana is merely trying to get him to go along with her desired outcome. He reacts as if she were engaging in *pressure* rather than persuasion.³ Perhaps this is a mistake; he may not be good at reading Alana's intentions from her words or tone. Or perhaps he has understood that she was trying to persuade him, but has chosen to act *as if* she were pressuring so that he can avoid engaging with her reasons. As described, the case is underspecified, and various details about Bradley's understanding and attitude determine whether this is an instance of failing to be open to persuasion. In any case, the point here is merely to highlight how complex the matter can be. Quite a bit of interpersonal sensitivity and knowledge is required to determine what is going on, even in perfectly ordinary interactions.

To draw these lessons back together: openness to persuasion is a matter of *engaging* with reasons. To engage with reasons is not necessarily to accept them, but it requires at least understanding and sincere

2. Of course, we can imagine continuations of DISAGREE that will settle the matter of Bradley's openness one way or another. Suppose that Alana presses, repeating her reasons and explicitly asking why Bradley thinks they are wrong. His response will indicate quite a bit about the attitude he has taken toward Alana's attempted persuasion.
3. And, if we add certain details to the story, Bradley may be right about this! Sometimes people do appear to be offering reasons, but are not sincere. (Think of the sort of political rhetoric that is couched in terms of apparent moral advice to opponents, but is obviously intended merely to excoriate.) Not surprisingly, the nature of a moral interaction between two agents depends heavily on facts about their attitudes toward one another, expressed only imperfectly in their words.

evaluation. Doing what a persuader wishes you to do is neither necessary nor sufficient to count as being open to moral persuasion — you may decline to act despite engaging with reasons (as in ARGUE) or act without engaging with reasons (as in GIVE IN). Finally, determining whether a particular interaction involves persuasion and/or openness to persuasion is not simply a matter of the words spoken — much depends upon the attitudes of the participants.

2.3 *The value of openness to moral persuasion*

When you and I disagree on a matter of moral significance, we are doing something more than merely registering inconsistent preferences. Our disagreement is different from the sort of disagreement between two people who want, respectively, to order the chicken or the fish. A moral reason is distinctive from a preference in that it is meant to apply to *any* agent in a particular situation, and it is meant to *override* preferences.⁴ Moral reasons are universal and categorical; disagreements about moral reasons are disagreements about what ought to be done, universally and categorically.

This difference explains why it often matters to us not only that other people change their behavior, but also that they do so as a result of engaging with appropriate moral reasons. If you and I are merely disagreeing about whether to order the chicken or the fish, then my aims are satisfied so long as I end up getting my preference. I don't really care if this is because you got sick of arguing, or were feeling generous, or are not a confident English speaker and accidentally told the waiter "chicken" when you meant to say "fish". So long as I get my chicken, the disagreement has resolved as I'd hoped.

By contrast, when Alana and Bradley are arguing about leaving a

4. The claim that moral reasons typically override preferences requires some qualification. Perhaps not every moral reason *always* overrides every preference; there are further considerations about strength, balance, and the centrality of personal projects. See, for instance, Bernard Williams, "Persons, Character and Morality", in *Moral Luck* (Cambridge: Cambridge University Press, 1981), 1–19; Samuel Scheffler, *The Rejection of Consequentialism* (Oxford: Oxford University Press, 1982).

tip, Alana's aims are not so easily satisfied. She attempts to persuade him — rather than coerce or pressure him — partly because it makes a difference to her *how* a change in his behavior comes about. Suppose that Bradley, intending to match the check exactly, instead miscounts his coins and unknowingly leaves enough to constitute a minimally decent tip. If Alana notices this, she might experience a moment of secret smugness, but she still won't be fully satisfied. It *matters* to her that Bradley has not changed his mind about the rightness of his choice. Later, on the drive home, she will be bothered when Bradley continues to remark on the righteousness of stiffing poor service.

When I engage in persuasion, my aims are wholly satisfied only if your behavior changes *because* you have changed your mind, since my aims include persuading you of my moral view. When I try to persuade you — rather than merely coerce you or pressure you — I am appealing to you *as a user of reasons*, and in particular as a user of reasons that can be shared with others. I am *not* relying on your basic capacity to recognize self-interested reasons, as I would when threatening you with a gun or social opprobrium. Instead, I am relying on your ability to comprehend reasons meant to apply to everyone. In addressing you with moral persuasion, I am treating you as a member of the moral community, someone toward whom moral reasons are appropriately addressed.

It is worth stressing just how *valuable* moral persuasion is. I don't mean instrumentally valuable, as in how effective it is in achieving certain outcomes. I mean intrinsically valuable: it is valuable *that* we regard one another as best approached through moral persuasion, and conceive of moral disagreements as occasions for persuasion rather than threats and incentives. Moral persuasion is valuable *because* it expresses a relationship between human beings *as* sharers of reasons, rather than as bundles of preferences or manipulable nodes in a causal network. Moral persuasion — unlike coercion or pressure — expresses a concept of ourselves as rational agents, whose decisions essentially involve the evaluation of shared reasons and the deliberate selection of some shared reasons over personal inclination.

Since moral persuasion is valuable, when I address you with moral persuasion I am recognizing you as a participant in a valuable enterprise. In fact, I am recognizing you as a *co-participant*, by making your engagement with my reasons a necessary element of the accomplishment of my aim. To treat you in this way is to accord you an important form of respect, which Stephen Darwall calls *recognition respect*. As Darwall explains, to treat a person with recognition respect is to treat that person as essentially authoritative:

The object of recognition respect is not excellence or merit; it is dignity or authority. Recognition respect concerns, not how something is to be evaluated or appraised, but how our relations to it are to be regulated or governed. Broadly speaking, we respect something in the recognition sense when we give it standing (authority) in our relations to it.⁵

Attempting moral persuasion — rather than coercion or pressure — accords recognition respect. Refusing to be open to moral persuasion is refusing to enter into a relationship of *mutual* respect. When you refuse to engage with the reasons I have offered, you signal that my ability to assess moral reasons lacks authority in your deliberations. You refuse to extend to me the recognition respect that I have *already* extended to you. You forgo an important opportunity to participate in an intrinsically valuable enterprise, and you refuse reciprocation of a central element of human relations.⁶

5. Stephen Darwall, *The Second-Person Standpoint: Morality, Respect, and Accountability* (Cambridge, MA; London: Harvard University Press, 2009), p. 123.

6. There might be other reasons to be open to moral persuasion, including epistemic ones. If moral testimony is an important source of moral knowledge, then refusing to be open to persuasion is placing oneself in a worse epistemic position. I'll leave such issues to the side here; for discussion, see Alison Hills, "Moral Testimony and Moral Epistemology", *Ethics* 120, no. 1 (2009): 94–127; Paulina Sliwa, "In Defense of Moral Testimony", *Philosophical Studies* 158, no. 2 (2012): 175–195.

2.4 *Limits on the obligation to be open to moral persuasion*

Let me stress, by reminder, that being open to moral persuasion requires only engagement with offered reasons. It is entirely possible to engage with reasons and yet ultimately retain one's own views, or to decline to do what is urged by the persuader. The obligation is merely to take the appropriate attitude of openness toward the reasons offered.

Some qualifications are in order. It should be immediately apparent that the obligation to be open to moral persuasion must not be a *perfect* obligation. That is, to count as fulfilling the obligation, a person needn't make herself open to moral persuasion at every single opportunity.⁷ There are several reasons why it cannot be a perfect obligation, but the simplest is a practical one. There are endless opportunities to be open to moral persuasion — no matter who you are or what you are doing, it is not at all hard to find some person who will attest that you are doing it morally wrong. (For easy examples of this point, consult any internet forum on parenting. Or perhaps any internet forum whatsoever.) If we took the time to seriously engage with every single moral reason offered to us, we would never get around to doing anything else. The obligation therefore must be weaker than an absolute requirement.

This makes clear that the obligation to be open to moral persuasion, like all imperfect obligations, is difficult to apply. Take any given instance in which a person attempts to offer moral persuasion but her target refuses to engage with the reasons. Because the obligation is an imperfect one, it is not true that every such instance counts as a violation. Like other imperfect obligations — charity, for instance — the obligation to be open to moral persuasion permits a significant degree of discretion on the agent's part. The agent must rely on her judgment to

7. By contrast, an obligation (or duty — I use the terms interchangeably) not to deliberately kill is an example of a perfect obligation, since it requires strict adherence in all instances. The perfect/imperfect distinction dates at least to Kant, and is the subject of much controversy — even the definitions are disputed. I will not attempt to say anything novel about the distinction here. See Thomas E. Hill Jr, "Kant on Imperfect Duty and Supererogation", *Kant-Studien* 62, no. 1–4 (1971): 55–76; Daniel Statman, "Who Needs Imperfect Duties?", *American Philosophical Quarterly* 33, no. 2 (1996): 211–224.

distinguish instances that really demand strict adherence and others where the value of fulfilling the obligation can be trumped by some other consideration, even a non-moral consideration like convenience.

I have already given an example of this sort: recall the case of DISAGREE, in which Bradley quickly says, "I get what you're saying. But I think we just disagree here," and then does not do what Alana urged. It may be that Bradley is refusing to be open to persuasion, but he has good reason. He and Alana get into little fights over minor points of right behavior all the time. Though he values and even enjoys these exchanges of views sometimes, right now he is just too tired.⁸

This is a situation-specific exercise of discretion. We might look for general rules guiding discretion across situations. Are there features that, in general, make it reasonable not to be open to moral persuasion? In the next section I will consider arguments that abortion decisions possess features exempting them from the obligation, so it will be useful to have in mind what such features might be like.

Consider attempted persuasion by a person like R. M. Hare's fanatic. A fanatic, according to Hare, is someone who is so committed to a particular moral ideal that he "does not mind if people's interests — even his own — are harmed in the pursuit of it".⁹ We can set aside the utilitarian slant of this definition by saying that a fanatic is a person so committed to one particular moral ideal that he will not even consider other moral reasons that might come into tension with it.

Plausibly, fanaticism is a feature that provides exception to the obligation to be open to persuasion. This is true in part because fanatics are typically not very persuasive; their monomania makes their reasons inaccessible to anyone with more nuanced moral commitments, and so there may be no point in listening. But it is also because fanatics

8. As this example shows, a theorist who does not like imperfect obligations would be free to construct a *perfect* obligation to be open to moral persuasion *under such-and-such conditions*. That is: once the conditions are suitably specified (e.g. neither party is just too tired...), the obligation to be open to moral persuasion is absolute. For my part, I am happy to countenance imperfect obligations and will not pursue this route.

9. R. M. Hare, *Freedom and Reason* (Oxford: Oxford University Press, 1963), p. 105.

are themselves rarely open to moral persuasion. A fanatic is happy to try to persuade you of his moral ideal, but he does not have time for yours. Since the central importance of moral persuasion consists in the constitution of morally valuable reciprocal relations of respect, we have very limited obligations to be open to persuasion by people who are clearly uninterested in reciprocating.¹⁰

It also seems reasonable to not be open to persuasion when it is unclear whether one's interlocutor is sincere. Sometimes moral *pressure* is applied under the guise of persuasion — a speaker may offer reasons to support her position, but not care whether the target actually *engages* with the reasons. In such a case, the purpose of the speech act is only to make clear that the speaker disapproves (especially when there is an audience).

It is not always obvious whether one is in such a situation. Recall the case GIVE IN, in which Bradley does what Alana wants him to do, but indicates that he is not convinced by the reasons ("fine, if it will make you happy..."). I said of this case that Bradley perhaps misunderstands Alana's motives; he understands her as engaged in pressure, when she does genuinely intend persuasion. Given that we are under no obligation to submit to pressure, and given the difficulty in assessing the attitudes of a person addressing you with moral reasons, it can be reasonable to not be open to (apparent) persuasion in cases where it is difficult to assess sincerity.

These examples underline the complexity of the obligation to be open to moral persuasion. It is an imperfect obligation, and a variety of possible circumstances can make it reasonable to ignore moral

persuasion in particular instances. For present purposes, I claim only to have shown that this *is* an obligation. A blanket policy of refusing to *ever* be open to moral persuasion is not acceptable, because it amounts to refusing to participate in the valuable enterprise of mutually according respect. The task of the next section is to situate disagreement about abortion within this picture of openness to moral persuasion as an imperfect obligation.

3. Abortion and moral persuasion

3.1 Applying the general obligation

I have argued that we have a general (imperfect) obligation to be open to moral persuasion in cases of disagreement. Disagreement about abortion is one of the most intense and apparently intractable moral disagreements in many societies. Logically speaking, it is a trivial matter to conclude that if we have a general obligation to be open to moral persuasion, then we have an obligation to be open to moral persuasion *about abortion*. A woman who seeks an abortion has an obligation to be open to moral persuasion by those who see abortion as wrong.¹¹ But, since the general obligation is imperfect, the conclusion can be blocked if features of abortion decisions constitute exceptions to the general obligation. This section examines various ways that abortion decisions might be seen as exceptions and concludes that none are convincing.

Some clarifications first: One is about the sort of exception at issue. I am certainly not claiming that there are never any circumstances in which a *particular* abortion decision would constitute an exception. As we saw in the last section, the value of being open to moral persuasion is highly sensitive to details of the attitudes of particular persuaders and targets, so there will always be specific instances that count as exceptions. What I will argue here is merely that abortion decisions

10. The fanatic is an interesting character, in light of our discussion of the value of participating in reciprocal relationships of sharing moral reasons. Since the fanatic is incapable of doing this, he is missing out on a valuable feature of human experience. We may have a special sort of other-concerning obligation toward the fanatic. If judicious engagement (a non-judgmental ear, productively leading questions, etc.) might help him become *less* of a fanatic, then we probably should try to do this for him, rather than simply write him off. (Thanks to an anonymous referee for raising this issue.) But that is a different sort of obligation, a reparative sort, rather than the more basic obligation to be open to persuasion by non-fanatics.

11. Of course, those who believe that abortion is morally wrong *also* have an obligation to make themselves open to moral persuasion by those who disagree with them, including by women seeking abortion.

are not *as a class* exceptions to the general obligation — that is, it is not true that all decisions about abortion are exceptions simply because they are about abortion.

A second clarification, to distinguish my argument from a somewhat related discussion: Dan Moller has argued that a woman seeking an abortion ought to consider that she is taking a *moral risk*. According to Moller, the arguments surrounding abortion are so complex and subtle that they are just the sort of thing we are likely to be mistaken about — and being mistaken about the moral status of a to-be-aborted fetus would be quite serious. Moller suggests that this consideration ought to make a woman less confident about the morality of her choice. Moller's paper is one of several to employ abortion as a central example of *moral uncertainty*.¹² But this will not be the focus of my argument; I do not assume that a woman seeking an abortion is or should be uncertain about the morally right thing to do. On my account, whether a person ought to make herself open to moral persuasion does not depend on her starting confidence in the belief targeted for persuasion, nor is it true that after listening to persuasion she must adjust her confidence downward.

Finally, a clarification about moral starting points: For my part, I am firmly convinced that abortion is morally permissible and that most legal restrictions on abortion are unjustified.¹³ I initially found the conclusion I will argue for intuitively repellent; it seems patriarchal and vicious to suggest that women making deeply personal choices are somehow obliged to take seriously the opinions of those who would condemn them. But I have talked myself into these conclusions, in part

12. D. Moller, "Abortion and Moral Risk", *Philosophy* 86, no. 3 (2011): 425–443. See also Andrew Sepielli, "What to Do When You Don't Know What to Do", in *Oxford Studies in Metaethics* 4 (2009): 5–28; Brian Weatherson, "Running Risks Morally", *Philosophical Studies* 167, no.1 (2014): 141–163; Elizabeth Harman, "The Irrelevance of Moral Uncertainty", *Oxford Studies in Metaethics* 10 (2015): 53–79.
13. I will not argue for these or any other first-order claims about abortion. I am merely declaring my position so that the dialectical purpose of this paper is not misunderstood.

by appreciating that their grounds are general to all moral disagreements. If you accept that the existence of moral disagreement requires us to accord respect to the moral reasons others offer us, and if you accept that at least some opponents of abortion are sincere in their views, then decisions about abortion are not excepted from moral persuasion. So I shall now argue, by rebutting various grounds for maintaining an exception.

3.2 *The insincerity of some anti-abortion "persuasion"*

The theoretical claims of this paper are in immediate tension with the reality of abortion "debate" in some contemporary societies. In the United States, anti-abortion activists employ tactics far outside the bounds of moral persuasion. These range from outright violence — shootings and bombings — to intimidation, such as filming and tracking women entering abortion clinics.¹⁴ Clearly no one is obligated to be open to influence by methods such as these.

But some anti-abortion tactics carry a veneer of persuasion. Think of protesters arrayed outside abortion clinics, waving "abortion = murder" placards. In principle, there may be conditions in which such displays are sincerely intended as persuasive. But it is typically much more plausible to see them not as offering moral reasons, but instead as using intimidating pressure tactics. Similarly, so-called "Crisis Pregnancy Centers", which advertise as abortion providers but instead dispense scientifically dubious advice about the health dangers of abortion, might *appear* to be engaged in a persuasive enterprise.¹⁵ But their willingness to be deceptive makes clear that they do not care whether their "clients" sincerely engage with moral reasons.

14. For examples and statistics, see NARAL Pro-Choice America, "Fact Sheet on Anti-Choice Violence and Intimidation" (2017), <https://www.prochoiceamerica.org/wp-content/uploads/2017/01/1.-Anti-Choice-Violence-and-Intimidation.pdf>.
15. US House of Representatives Committee on Government Reform, "False and Misleading Health Information Provided by Federally Funded Pregnancy Resource Centers", (2006), <http://www.chsourcebook.com/articles/waxman2.pdf>.

I mention these examples to illustrate the murkiness of applying general claims about moral persuasion to the reality of abortion discourse. Intimidating and deceiving are not persuading, even when they wear a persuasive disguise. Applying the obligation to be open to moral persuasion to abortion decisions requires carefully discerning tactics that fail to qualify as genuine persuasion; there is no obligation to be open to intimidation or deception.

If it could somehow be shown that *all* attempts to discourage women seeking abortion were objectionable in this way, then there would indeed be no obligation to be open to persuasion on abortion. Some defenders of abortion appear to hold such a view; they claim that opposition to abortion is motivated only by patriarchal desires to control women's choices.¹⁶ On this account, argumentative appeals to the moral status of a fetus are deceptive, and apparent moral persuasion on this basis cannot be sincere.

Though I will not argue the point here, I do not find this view compelling. I assume that at least *some* opponents of abortion engage in good-faith argument, and that at least some opponents of abortion take themselves to be sincerely offering moral reasons to those with whom they disagree.

3.3 *Emotional vulnerability*

Moral philosophers tend to write about abortion in a bloodless and abstracted way, as a clash of interests between two entities which happen to be biologically connected. Whatever merits this characterization might have for theoretical reflection, it does a poor job of tracking the lived experience of many women. Abortion decisions are very

16. Catharine MacKinnon, for instance, writes: "Men's issue of potency, of continuity as a compensation for mortality, of the thrust to embody themselves or the image of themselves in the world, seem to underline their relation to babies, as well as to most everything else. The idea that women can undo what men have done to them on this level seems to provoke insecurity sometimes bordering on hysteria. To overlook these meanings of abortion to men as men ... is to misassess where much of the opposition to abortion is coming from ..." ("The Male Ideology of Privacy: A Feminist Perspective on the Right to Abortion", *Radical America* 17, no. 4 [1983]: 23-38, p. 24).

often highly emotionally charged. Some women, while certain that abortion is morally permissible, remain conflicted about their readiness for motherhood (just as one can be emotionally conflicted about any major life decision). Any woman who seeks an abortion faces risk of anxiety brought on by harmful social stigma. And some women do find the decision morally problematic. A study of more than 5,000 abortion clinic patients found that, though 99% responded positively to the statement "I am sure of my decision to have an abortion", 17% thought it was "true" or "kind of true" that "At my stage of pregnancy, I think abortion is the same as killing a baby that's already born".¹⁷

Given the emotional pain that some women seeking abortion are likely to experience, it might be thought unreasonable to expect them to be open to moral persuasion. Scott Woodcock points out that even providing accurate medical information can be problematic:

[C]ertain kinds of information can lead to emotional harm in the form of guilt, shame and other negative feelings that are reliably associated with women being presented with the fine details of fetal development or surgical abortion methods, and these feelings tend to exert powerful influences on women considering the termination of a pregnancy whether they reflectively endorse the feelings or not. ... Thus, the harm at stake when providing informed consent for abortion is harm that can be viewed as interfering with patients being able to exercise agency without manipulative influences.¹⁸

If merely providing medical information carries the risk of emotional harm, it seems likely that providing moral reasons *against* seeking abortion will also be emotionally taxing. Even when a speaker sincerely

17. Diana Greene Foster et al., "Attitudes and Decision Making Among Women Seeking Abortions at One U.S. Clinic", *Perspectives on Sexual and Reproductive Health* 44, no. 2 (2012): 117-24.

18. Scott Woodcock, "Abortion Counselling and the Informed Consent Dilemma", *Bioethics* 25, no. 9 (2011): 495-504, p. 498.

intends persuasion and not pressure, the social status of abortion is so freighted that any opposed reasons are likely to be received as painful moral criticism. Given this emotional background, perhaps it is just not reasonable to expect openness to moral persuasion in abortion decisions — doing so would impose yet another burden in what is already a difficult situation, one deserving understanding and support rather than disagreement.

This must be true in some cases: particular women whose immediate communities are unrelentingly hostile to abortion, and who cannot be expected to bear the emotional burden of sorting the rare sincere persuader from the mass of peers pressuring. But I do not think that this holds for abortion decisions *as a class*. One reason to doubt this is that most women seeking abortion are able to disentangle their emotional responses from their decisions. A study of women's emotional attitudes one week after abortion found that, even among those who felt primarily negative emotions, 84% still upheld their choice as the right one. As the study notes, "Experiencing negative emotions postabortion is different from believing that abortion was not the right decision."¹⁹ Another study asked women who viewed ultrasound images before abortion about their emotional reaction and "found no evidence that viewing was broadly distressing or that emotions depended on the gestational stage. ... Just over one in five reported that viewing provoked negative reactions of guilt, depression, or sadness; one in ten reported positive feelings such as happiness; and the largest group, just over a third, said they felt 'fine,' 'okay,' or even 'nothing.'"²⁰

19. Corinne H. Rocca et al., "Women's Emotions One Week After Receiving or Being Denied an Abortion in the United States", *Perspectives on Sexual and Reproductive Health* 45, no. 3 (2013): 122–31, p. 122. It is worth noting that the same study found women *denied* an abortion (due to local gestational limits) experienced significantly greater negative emotions than those who had abortions.

20. Katrina Kimport, "What Happens when Women Planning Abortions View Ultrasounds?"; September 29, 2015; *Sociological Images*; <https://thesocietypages.org/socimages/2015/09/29/what-happens-when-women-planning-abortions-view-ultrasounds/>. This is her summary of data from Katrina Kimport, Tracy A. Weitz, and Diana Greene Foster, "Beyond Political Claims: Women's

There are also serious theoretical and indeed political costs to claiming an exception on grounds of emotional vulnerability. Women seeking abortions should not be imagined as anything less than full agents who make genuine moral choices.²¹ This means that they are morally accountable, and answerable to the moral reasons of others, just as much as anyone making any other morally significant decision. Suggesting otherwise on grounds of emotional vulnerability risks infantilizing abortion-seekers, changing a difficult agential decision into a mere reaction. Maintaining our respect for women's agency requires denying that women seeking abortions are excepted from the usual obligation to identify sincere moral disagreement and engage with its reasons.²²

3.4 Intimacy and personal choice

A closely related concept may provide a better argument. Rather than see women seeking abortions as vulnerable, we should see them as confronting a uniquely *intimate* decision, a decision so immanently personal that it stands apart from other moral choices. This may ground an exception to the obligation to be open to persuasion.

Interest in and Emotional Response to Viewing Their Ultrasound Image in Abortion Care", *Perspectives on Sexual and Reproductive Health* 46, no. 4 (2014): 185–191.

21. This point is compatible with acknowledging that medical patients *in general* are dependent on physicians for information and are imperfect examples of individualistic autonomy. See Onora O'Neill, *Autonomy and Trust in Bioethics* (Cambridge; New York: Cambridge University Press, 2002).
22. There may be another reason to resist the idea that emotional vulnerability excuses one from being open to moral persuasion. Some opponents of abortion may believe that strongly negative emotions are an *appropriate* response to considering the great evil of having an abortion. If this is so, then pulling away from abortion's evil may be an emotionally transformative experience, from which it would be wrong to attempt to shield oneself. (I owe this point to an anonymous referee.) I am not personally sympathetic to this idea; it seems to me that even if abortion is wrong, it is such a metaphysically confusing issue that it is not reasonable to expect *any* particular emotional response. But perhaps I think this simply because I am not persuaded by the anti-abortion position.

Margaret Little has argued persuasively that the concepts and language used in typical moral discourse are ill-fitted to the circumstances of pregnancy and abortion. Atomistic discussion of individual rights misses essential features of the interconnection between woman and fetus, and especially what the experience of pregnancy is like for the woman:

To be pregnant is to be *inhabited*. It is to be *occupied*. It is to be in a state of physical *intimacy* of a particularly thorough-going nature. The fetus intrudes on the body massively ... the fetus shifts and alters the very physical boundaries of the woman's self. To mandate continuation of gestation is, quite simply, to force continuation of such occupation.²³

Pregnancy, Little stresses, involves a distinctively *intimate* physical connection to another entity. But the point is not merely about physical facts. Little argues that gestation is a process by which a woman creates and defines an intimate relationship: a relationship to a fetus within her body or (if she chooses) a relationship to a child. In a related vein, Alison Jaggar argues that, because "decisions should be made by those, and only by those, who are importantly affected by them", and because contemporary social arrangements assign women nearly exclusive responsibility for children, it is only women themselves who can legitimately decide the outcomes of their pregnancies.²⁴

Many people see this distinctive intimacy of pregnancy as leading directly to a woman's complete discretion over the resolution of her pregnancy. The familiar slogan "My Body, My Choice" captures this idea succinctly: because pregnancy happens so directly to a particular woman — indeed, *in* a particular woman — the decision about whether

23. Margaret Olivia Little, "Abortion, Intimacy, and the Duty to Gestate," *Ethical Theory and Moral Practice: An International Forum* 2, no. 3 (1999): 295–312, p. 301. Italics in original.

24. Alison M. Jaggar, "Abortion and a Woman's Right to Decide," in *Living with Contradictions: Controversies in Feminist Social Ethics* (Boulder, CO: Westview Press, 1994), 281–287, p. 282.

to continue the pregnancy must also take place directly within her. Similarly, the specificity of the motherhood relationship potentially created in pregnancy — the intimate relationship and its unique responsibilities — precludes any interference by outsiders.

Might these factors also generate an exception to the obligation to be open to moral persuasion? If the choice *belongs* to the woman so completely, so absolutely, then what right does anyone else have to presume to offer her moral reasons? Of course, it is one thing if a woman *seeks* moral advice; certainly there is nothing wrong with providing one's honest opinion to a pregnant woman who chooses to open her decision to the evaluation of others. But if a woman does not actively seek moral counsel, shouldn't she be left to her own choice? Why would she be *obligated* to be open to persuasion by anyone outside the essentially intimate decision she must make?

I am tempted by this line of thought; it comes the closest to my own intuitive views. But ultimately I think that it is mistaken. Even if we accept that the uniquely intimate features of pregnancy entail a woman's right to have the *final say*, this does not mean that no one else may have any say at all, nor that a pregnant woman need not listen.²⁵

The key point here is to appreciate just how weighty the reasons offered by those opposed to abortion are seen to be. For some abortion opponents, a fetus is no less a moral patient than any adult human. Abortion is the moral equivalent of murder. That millions of abortions are performed annually is regarded as state-sanctioned, medically enabled mass slaughter. It is, according to some, an "unspeakable crime".²⁶

25. Little and Jaggar might not disagree. Jaggar emphasizes only the final say of a pregnant woman: "To say that each woman in our society has the moral right to decide whether or not she should terminate her pregnancy is not to say that abortion is always justified. It implies nothing about what justifies abortion. Quite possibly, in deciding whether to abort or to bear the child, a woman will make the wrong decision. But the right to decide is hers" ("Abortion and Woman's Right to Decide," p. 285). As for Little, her own position may actually *increase* the obligation to be open to moral persuasion, since the creation and termination of intimate relationships are of such central moral importance. (I owe the latter point to an anonymous referee.)

26. Second Vatican Council, "Pastoral Constitution on the Church in the Modern

I do not accept this characterization of abortion, not at all. But that is irrelevant. Many opponents of abortion do accept it, urgently and sincerely. The wrongness of abortion, and the need to persuade others of its wrongness, is to them a matter of vast moral importance. It is precisely because opponents of abortion regard it as gravely important that abortion cannot constitute an exception to the obligation to be open to moral persuasion. It is not as if opponents of abortion were merely citing personal preference.²⁷ They take themselves to be presenting impersonal moral reasons and appealing to a woman's capacity for rational deliberation. If their position were correct, and if their persuasive efforts were effective, it would be *because* a woman came to appreciate the moral immensity of abortion, and voluntarily accepted the severe burdens of an undesired pregnancy as demanding moral self-sacrifice.

This is why the intimacy of pregnancy does not generate an exception to the obligation to be open to persuasion. Opponents of abortion are not simply ignorant of the burdens they urge pregnant women to undertake; rather, in their view, preventing the grave evil of abortion overwhelms the seriousness of these demands. Similarly, on their view, the urgency of the matter trumps the discretion we normally accord a person making a difficult intimate choice. So to claim that abortion decisions are excepted from moral persuasion is to *presuppose* that the moral reasons these people would offer are without merit — and to presuppose that we could not possibly share their reasons.

We can, of course, disagree with their reasons. Disagreement can be a form of engagement, and engagement is all that openness to moral persuasion requires.²⁸ What we cannot do is simply ignore them. To

World", *Gaudium et Spes* (1967).

27. Similarly, they are not typically claiming that a fetus gains moral status from the fact that they, personally, care about it — though perhaps some do claim this. See Elizabeth Harman, "Sacred Mountains and Beloved Fetuses: Can Loving or Worshipping Something Give It Moral Status?", *Philosophical Studies* 133, no. 1 (2007): 55–81.

28. It is worth noting that the reasons many opponents of abortion wish to share with us concern the moral status of the fetus. Many contemporary defenders

ignore them is to express disrespect for deep moral commitments. It is to refuse to accord to our opponents recognition as users of moral reasons, or members of the moral community. If they sincerely aim to provide us with reasons, then our refusal to engage would be a refusal to reciprocate participation in the valuable enterprise of sharing reasons.

Of course, the intimacy (and vulnerability) of abortion decision *does* require that those who wish to offer moral persuasion exercise unusually high care.²⁹ Endlessly haranguing women entering abortion clinics is not moral persuasion. Perhaps some opponents of abortion would argue that the moral urgency of their position justifies going beyond persuasion, to pressure or even coercion. If so, they will find no assistance from my argument. It is only persuasion that confers recognition as a co-participant in the valuable enterprise of sharing reasons. There is no obligation to have one's moral agency suborned in service of someone else's values.

of abortion argue that abortion is permissible *even if* one concedes that the fetus has full moral status. See, famously, Judith Jarvis Thomson, "A Defense of Abortion", *Philosophy and Public Affairs* 1, no. 1 (1971): 47–66. If they are right, then it is possible to engage quite thoroughly with the reasons offered by abortion opponents without concluding as they would wish.

29. Because moral persuasion gets its value from sustaining mutual respect, it is already *deeply* incompatible with aggressive and pejorative expression. The intimacy of abortion decisions provides an additional reason to be sensitive and thoughtful in how one addresses oneself as a moral persuader. I think that some of the plausibility of regarding abortion as an exception to the obligation to be open to persuasion stems from the ways in which some abortion opponents have extraordinarily failed to exhibit the requisite respect for the women they address. As Soran Reader points out: "It is striking that these deliberations by women, although of course plentiful and perennial, are by and large solitary. This must be ... at least partly because of the shame and stigma our society continues to inflict on women who 'get themselves pregnant' and realize that they may not want to continue, and partly because of the open season on women that the 'debate' approach to abortion encourages" ("Abortion, Killing, and Maternal Moral Authority," *Hypatia* 23, no. 1 [2008]: 132–149, p. 142).

4 Fetal ultrasound images as moral persuasion

4.1 *Ultrasound viewing and abortion decision-making*

I have argued that we have a general obligation to be open to moral persuasion by those with whom we disagree. I have also argued that decisions about abortion do not (as a class) constitute an exception to this general obligation. I'll now conclude the main argument by discussing a particular *form* of moral persuasion. Some opponents of abortion believe that viewing fetal ultrasound images can convey morally relevant information to a woman seeking abortion. I will argue that this implies that women seeking abortion are sometimes obligated to view ultrasound images of their fetuses.

Obstetric ultrasonography is a medical technique that uses high-frequency sonar echoes to construct a visual representation of a fetus within the womb. In wealthy countries, it is standardly performed at least once during pregnancy to assess fetal growth, development, and sometimes sex. Most readers are likely familiar with how a fetal ultrasound image appears: black-and-white, grainy and blurry, but typically with a few blobs that suggestively represent major body parts.³⁰ Ultrasound technicians are trained to interpret these blobs in order to assess the health of the fetus.

It is important to note that ultrasound is also a standard diagnostic element of medical abortion, performed before the abortion procedure itself in order to confirm the pregnancy and gestational age. In most cases, a woman seeking abortion will typically undergo an ultrasound as a matter of course, whether or not she views the images. Once the images are available, some abortion providers routinely

30. Ultrasounds conducted very late in a pregnancy are often much more distinct; if you are imagining an ultrasound image of a fetal face or profile, you are likely recalling images taken in the final weeks. Proportionally, very few abortions take place at this stage of a pregnancy — only 1.4% after 21 weeks in the United States, according to Lilo T. Strauss et al., "Abortion Surveillance — United States, 2003", *MMWR Surveillance Summaries* 55, no. SS-11 (2006): 1–32.

offer women the opportunity to view them before proceeding with abortion, though not all do.

Some women seeking abortion reconsider their decision after viewing a fetal ultrasound image. In a qualitative interview study, Katrina Kimport and colleagues found a range of opinions. A woman named Amanda, pregnant from rape at age 23 with three children, changed her mind:

I walked in, paid the money, went and had an ultrasound, and the lady asked me if I wanted to look, and I didn't think too much about it ... I went ahead and looked and it was [my daughter], and she was moving around and it freaked me out. I left and didn't go back.³¹

This is far from a common experience. A quantitative study of more than 15,000 visits to an urban abortion provider in the United States found that 98.4% of women who voluntarily viewed fetal ultrasound images proceeded to abort.³² Viewing ultrasound images had no detectable effect on the choices of those who reported high certainty in their decisions. However, there *was* a small but statistically significant increase in likelihood of continuing a pregnancy among women who reported medium or low certainty.

These results therefore suggest that at least *some* women change their minds about seeking an abortion as a result of seeing ultrasound images. Of course, this by itself does not show that these women have treated the images as providing them with moral reasons. It might be that something else is happening — that these women are overwhelmed by emotion or misled by the image or some other problematic mode of decision-making. The task of this section will be to show

31. Katrina Kimport et al., "Women's Perspectives on Ultrasound Viewing in the Abortion Care Context", *Women's Health Issues* 22, no. 6 (2012): e513–517, p. e515 (ellipsis in original). The authors note that, although viewing an ultrasound image dissuaded Amanda once, it did not do so permanently, as she aborted a later pregnancy.

32. Mary Gatter et al., "Relationship Between Ultrasound Viewing and Proceeding to Abortion", *Obstetrics & Gynecology* 123, no. 1 (2014): 81–87.

that we *can* interpret these women's decisions as engaging with moral reasons. With this interpretation available, we can see how viewing ultrasound images can be a way of fulfilling the obligation to be open to moral persuasion. I will first motivate the idea by analogy to a simpler case. Then I will consider several potential objections concerning ultrasound images.

4.2 *Images and moral reasons*

Sarah McGrath has argued that viewing pictures can matter to moral deliberation by allowing viewers to undergo what she calls a "conversion experience", "in which someone changes his or her mind about the moral permissibility of a given practice in response to acquaintance with an instance of the practice".³³ McGrath is talking about pictures in general, not specifically ultrasound images in an abortion context. But we can naturally interpret the abortion opponent as employing McGrath's concept to claim that viewing an ultrasound image can lead a pregnant woman to a conversion experience regarding the permissibility of abortion.

If (like me) you do not believe that abortion is wrong, then you may doubt that fetal ultrasound images actually *do* provide morally relevant reasons. In order to make the abortion opponent's claim seem more plausible, it may help to first consider a different instance of images mattering to moral deliberation.

Imagine the following situation: Some future American president is contemplating authorizing aerial drone strikes against a far-away camp of suspected terrorists. Her military advisers believe there is a significant probability of killing several "high-value targets". Unfortunately, the suspected terrorists are keeping young orphans within the camp as human shields. Launching the drone strikes will almost certainly kill some of these children.

33. Sarah McGrath, "Normative Ethics, Conversion, and Pictures as Tools of Moral Persuasion", *Oxford Studies in Metaethics*, Vol 1, ed. Mark Timmons (Oxford: Oxford University Press, 2011): 268–293.

Despite this risk, the president has just about decided to authorize the strikes. Then one of her aides speaks up: "Madame President, I've asked the Pentagon to use our high-resolution satellites to get a few images of the camp. Here are some photos of the children. You can see their faces, their little hands. I think you ought to take a look before you decide."³⁴

Now, perhaps the president is ultimately morally justified in authorizing the strike, despite the risk to the children. Perhaps the high-value targets really are that dangerous. But even if this is true, I think that the president ought to look at those pictures. She ought to take just a moment to engage with the emotions those photos would trigger, to appreciate how they make the children something more than numerical abstractions. It may be that, after she has done this, authorizing the strike is still the right thing to do. But I believe it would be wrong of her to refuse to look at the photographs at all.

I hope you share my intuition about this case. But even if you do, you may think it is not an appropriate analog to abortion. Orphan children, everyone agrees, have full moral status. Images of children trigger appropriate emotional reasons *because* of this moral status. But, you may think, fetuses just don't have moral status (or are, in some other important way, different from children). Whatever emotions are triggered by fetal images are not genuine reasons, because fetuses don't have the right status.

I agree, more or less, with what you've said about fetuses. But, as I've been arguing throughout, according respect to those with whom we disagree requires leaving ourselves open to being persuaded by them. If you allow that viewing images can sometimes be relevant to moral decision-making, then you cannot declare antecedently that the

34. I constructed this case as a hypothetical, but it turns out that reality is not far off. Recently a group of artists printed a photograph of a young girl orphaned by a drone strike onto an enormous canvas tarp, which they then spread across fields in Pakistan. The aim was to force drone pilots looking down to conceive of their targets as fully human. See Leo Benedictus, "The Artists Who Are Giving a Human Face to the US's 'Bug Splat' Drone Strikes", *The Guardian* (April 7, 2014), <https://www.theguardian.com/world/shortcuts/2014/apr/07/artists-give-human-face-drones-bug-splat-pakistan>.

images regarded as important by others are never relevant in this way. Respect for your opponents' moral agency requires you to at least take a look, to engage.

4.3 Are fetal ultrasound images misleading?

One way to challenge the role of ultrasound images in moral persuasion is to point to a problem with the images themselves. Perhaps they *misrepresent* something about the fetus or its relation to the woman carrying it. Joanne Boucher makes an argument of this sort.³⁵ She claims that viewing ultrasound images can be misleading, because these images require trained technicians to interpret — someone to point among the various blobs and say, "That is an arm." Boucher continues: "The visual image can only be interpreted by the expert, but the expert appeals to the scientific facts and thus undercuts the viewer's possible doubts about the clarity of what is being seen."³⁶ Technical interpretation of ultrasound images, according to Boucher, confers a false sense of confidence in seeing the various bits of a fetus as human body parts, of seeing the fetus as a person.

But it isn't clear how this would show that the images are misleading. Boucher is not suggesting that fetuses don't actually *have* arms and legs and other body parts, just that the scientific context of viewing confers undue significance on these facts. But this argument seems to simply assume that the images convey nothing of moral significance; the idea seems to be that we can debunk any *apparent* significance of the images by attributing it to the morally irrelevant prestige of medical science. This sort of debunking would be reasonable if we already agreed that the images depict nothing significant — yet that is precisely what is disputed.

Lindsay Kelland and Catriona Macleod offer a more precise argument that fetal images are misleading in abortion debates. They write

35. Joanne Boucher, "Ultrasound: A Window to the Womb?: Obstetric Ultrasound and the Abortion Rights Debate", *Journal of Medical Humanities* 25, no. 1 (2004): 7–19, p. 8.

36. *Ibid.*, p. 16.

that "the images of aborted fetuses chosen for anti-abortion campaigns bias us by failing to present the woman within whose body the fetus is housed".³⁷

This argument has some merit: it *is* misleading to depict an isolated fetus, given the intimate entwining of pregnancy. But it is important that the examples of objectionable images that Kelland and Macleod discuss are *not* ultrasound images; rather they are posed photographs of fetal remains following abortion. Unlike posed photographs, ultrasound images place a fetus *within* context; they locate it in space within the woman's body. Indeed, Catherine Mills argues on these grounds that ultrasound images tell us about the fetus *in relation* to us:

[U]ltrasoundographic imaging makes apparent a corporeal life that is distinct from that of both the woman carrying the fetus (though interdependent with her) and of other viewers of the image. Nevertheless, this corporeality only appears in relation to these others, thus establishing the fetus as a being toward which we bear a social relation that differs substantially from that possible without ultrasonography.³⁸

I suspect that whether you think ultrasound images are misleading depends to quite a large extent on your ultimate view about the morality of abortion. If, like me, you think abortion is morally permissible, then you are likely to think that a person morally deterred from abortion by these images has been misled. But, again, this is just to presuppose the irrelevance of an opponent's reasons without engaging them — a core violation of the obligation to be open to moral persuasion. Or, as McGrath puts it: "if I am convinced that some practice is morally permissible, and (naturally enough) I prefer that others share my view, I

37. Lindsay Kelland and Catriona Macleod, "When Is It Legitimate to Use Images in Moral Arguments? The Use of Foetal Imagery in Anti-Abortion Campaigns as an Exemplar of an Illegitimate Instance of a Legitimate Practice", *Philosophical and Social Criticism* 41, no. 2 (2015): 179–195.

38. C. Mills, "Technology, Embodiment and Abortion", *Internal Medicine Journal* 35, no. 7 (2005): 427–28, p. 428.

might not like the idea of their being exposed to pictures if I suspect that this would reduce the number of people who share my view. But of course, that hardly constitutes a principled reason for resistance.”³⁹

Of course, if ultrasound images misrepresented *non-moral* facts about fetuses, then this would be crucial; the obligation to be open to moral persuasion does not require you to take in factual falsehoods. But, to my knowledge, no one claims this about fetal ultrasound. Claims of misrepresentation seem to be about the moral significance or interpretation of the images — and that is precisely one of the things in dispute between us and those who wish to offer persuasion.

4.4 Do fetal ultrasound images trigger involuntary emotional reactions?

Perhaps the trouble is not with the content of ultrasound images, but the way in which they affect women’s deliberations. Ultrasound images can trigger strong emotional responses; Amanda, the 23-year-old who left the abortion clinic, was “freaked out” by what she saw. On one influential arch-rationalist view of moral deliberation, emotional input is by definition misleading. Martha Nussbaum characterizes how this view sees emotions: “Like gusts of wind or the currents of the sea, they move, and move the person, but obtusely, without vision of an object or beliefs about it.”⁴⁰ Ideal deliberation, this view maintains, is cool and thoughtful, divorced from emotional influence as much as possible. So, if it’s true that emotions push us toward choices independently of rational deliberation, then fetal ultrasound images are best understood not as persuasion at all, but as a form of emotional pressure.

I do not accept the view of emotion and moral deliberation that underlies this objection. Emotions are neither entirely involuntary nor entirely arational. I am sympathetic to Alison Jaggar’s understanding of emotions as “active engagements”. Jaggar points out that, though emotions arise unbidden, we have significant control over how we

are affected by them: “[W]e might try to change our response to an upsetting situation by thinking about it in a way that will either divert our attention from its more painful aspects or present it as necessary for some larger good.”⁴¹ We can engage with emotional prompts just as readily as we can engage with passionless arguments. Indeed, Nussbaum argues that emotions are essentially intentional and value-linked; emotions represent objects and situations to us *as* tending toward or against constituents of the good life. Emotions, on this view, are very well-suited to employment in moral deliberation. If ultrasound images trigger emotional responses, this does not disqualify them from playing a role in moral persuasion.⁴²

4.5 Is the ultrasound image offered as a form of persuasion?

Perhaps the problem is not with the emotional effects of ultrasound images, but with the conversational context in which they are viewed. Specifically, it may be a mistake to interpret the clinical abortion situation as offering any “conversational” context at all. Who is “speaking” through the ultrasound image, and how do we know that they intend it to be persuasive?

In the drone strike scenario, a specific aide offered images of the endangered children to the president, along with an explicit desire that she examine them before deciding. The president could easily understand from context that at least one moral agent believed the images presented her with a salient moral reason to act differently than she intended. But fetal ultrasound images generally do not appear in a context like this. The technician who produces and displays the image is not plausibly understood as doing so with the intention of persuading the woman to continue her pregnancy. So who is doing

41. Alison M. Jaggar, “Love and Knowledge: Emotion in Feminist Epistemology”, *Inquiry* 32, no. 2 (1989): 151–176, p. 158.

42. It is also worth noting that the arch-rationalist view may have fundamental difficulty grappling with procreative decisions. L. A. Paul has recently argued, on decision-theoretic grounds, that it is not possible to make rational decisions about whether or not to have a child. See L. A. Paul, “What You Can’t Expect When You’re Expecting”, *Res Philosophica* 92, no. 2 (2015).

39. McGrath, “Normative Ethics, Conversion, and Pictures as Tools of Moral Persuasion”, p. 277.

40. Martha C. Nussbaum, *Upheavals of Thought: The Intelligence of Emotions* (Cambridge: Cambridge University Press, 2001), p. 25.

the persuading? To whom, if anyone, could the woman owe an obligation to be open to persuasion? If there is no persuader, then there can be no such obligation.⁴³

Obviously the persuader must be someone other than the medical professional performing the ultrasound. The persuader is a member of the moral community, perhaps a pro-life advocate, who is aware that the woman will have ultrasound images available to her and wishes her to view them as a way of engaging with moral reasons. There certainly do exist such people. Tony Fulton, a Nebraska state senator, articulated this view during legislative debate: “If we can provide information to a mother who is in a desperate situation — information about what she’s about to choose; information about the reality inside her womb — then this is going to reduce the number of abortions.”⁴⁴

Does this make sense? Can a woman have an obligation to be open to persuasion by a person who wishes her to view an image, even when the persuader is not the one producing the image? I think the answer is yes, and we can see this by returning to the drone strike case. Reimagine the case, with the persuader and the image-producer separated. Suppose that the president meets with an anti-war activist, who says to her: “I wish you would just look at pictures of those orphans before you risk their lives. You’d see what you are doing is wrong.” The very next day, a military aide (knowing nothing about the anti-war activist) brings the president a briefing on her planned drone strike. The aide leaves a stack of high-resolution images on the desk, declaring that they clearly show the faces of every single individual in the targeted camp.

In this version of the scenario, the president is aware that the

anti-war activist wishes her to engage with the moral reasons offered in these photographs. This is true even though the anti-war activist did not personally produce the photographs. Intuitively, for me anyway, these alterations do not much matter to evaluating the scenario. The anti-war activist has offered moral persuasion to the president, and the president has at least some obligation to engage. If that seems right, then we should say something similar to address the current objection: anti-abortion advocates offer moral persuasion to women seeking abortion through the images they know will be produced by medical professionals, and women have at least some obligation to engage.

This discussion does introduce some qualifications on the obligation to be open to persuasion by ultrasound images. In order to be obligated in this way, a woman must be *aware* that there are members of her moral community who regard the ultrasound images as persuasive. Since the obligation to be open to persuasion is an obligation *to the persuader* (as a co-participant in the valuable project of sharing moral reasons), there is no obligation when a person is non-culpably unaware that anyone is acting as a persuader. In places where abortion is extremely controversial and frequently discussed in public, most women seeking abortions are very likely to be aware of these persuaders, but there may be rare cases where they are not, and the obligation will not apply in these cases.

4.6 *Can images give reasons?*

A final objection pertains to the *form* of images, rather than their effects or context. An image, after all, is not an argument. It depicts a state of affairs, but (one might claim) a mere depiction is not itself a reason to do anything. A reason needs to do more than depict facts; it must also explain *why* the depicted facts tell in favor of some response or other. An image does not do this. So, goes the objection, even if an anti-abortion activist wishes that an image should deter a woman from aborting, what the activist wishes for is not *persuasion*, because the image is not structured to present reasons.

43. Thanks to an anonymous referee for providing me with the objection discussed in this subsection.

44. As quoted in Rachel Benson Gold, “All That’s Old Is New Again: The Long Campaign to Persuade Women to Forego Abortion”, *Guttmacher Policy Review* 12, no. 2 (2009): 19–22, p.19. Fulton was advocating a law *compelling* ultrasound viewing. As I’ll soon argue, such compulsion is severely problematic. I use the quote here merely to demonstrate the intention that some individuals have for engagement with ultrasound images.

But this objection works only if we think about images in isolation from context. Images can function as reasons when they are presented in a context where the viewer understands how the image is *meant* to be relevant to a choice. A photograph of a chemical dumping ground is not *itself* a reason for or against anything, but in a context where I have just suggested a picnic at the site, brandishing the photograph will be at least as effective a counterargument as any linguistic expression of reasons.

Once context is taken into account, images-provided-as-reasons can be subject to many of the same requirements we impose on linguistically presented reasons. As Paul Lauritzen has argued, fetal ultrasound images, when offered as reasons, can be evaluated on their accuracy in depicting morally relevant facts *and* on the consistency of their use within argument. For instance, Lauritzen points out, some opponents of abortion have a problem of argumentative consistency when they appeal to the visible bodily structures of late-stage fetuses as grounds for invoking moral personhood. Often they are silent about the complete absence of these same features in images of early embryos to which they also accord moral personhood.⁴⁵

Indeed, this objection may misunderstand the “location” of reasons in persuasion. The objection appears to assume that the entirety of a reason must be explicitly present in the words (or images) invoked by a person aiming at persuasion. But, as Rosalind Hursthouse has argued, the complexity of abortion decisions is such that we may not be able to make explicit precisely how a particular set of circumstances makes one choice rather than another the morally right one. Hursthouse claims that the rights and wrongs of abortion do not turn on abstruse arguments about metaphysics, but instead turn on cultivating “the right attitude” toward confronting “the familiar biological facts” about pregnancy.⁴⁶ Hursthouse appears to accept that early

45. Paul Lauritzen, “Visual Bioethics”, *The American Journal of Bioethics* 8, no. 12 (2008): 50–56.

46. Rosalind Hursthouse, “Virtue Theory and Abortion”, *Philosophy & Public Affairs* 20, no. 3 (1991): 223–46, p. 237.

abortion typically presents no great moral problem, but argues that typical emotional attitudes toward the fetus are appropriately sensitive to its development. “To shrug off an early abortion,” she says, “is understandable just because it is very hard to be fully conscious of the fetus’s existence in the early stages and hard to appreciate that an early abortion is the destruction of life.”⁴⁷ On this view, the moral reasons best fitted to particular biological facts may not be expressible antecedently and explicitly. They may arise from reflection on images that depict the biological facts.

I will leave the last word on these points to Lisa, age 23, who chose to see ultrasound images of her fetus and then chose to abort it:

I asked to see the picture ‘cause, I mean, you know, it’s a healing thing — or not necessarily a healing thing but, you know, I wanted to feel all the pain of what I was doing because it’s not about me, you know, it’s not my life.⁴⁸

Lisa’s response seems to me a model of maturity and moral sensitivity. She actively sought all available information about what she was doing. She engaged with and processed the emotions triggered by the ultrasound images. She considered some of the strongest possible moral reasons against her decision. And then, having engaged and understood, she still chose.

5. Persuasion and Compulsion

I have argued that there is a general obligation to be open to moral persuasion, and that this implies a woman seeking abortion has an obligation to be open to moral persuasion via examining fetal ultrasound images. Note two important features of this argument. First, the

47. *Ibid.*, p. 239. This view of the salience of developmental stage and maternal attitude is already present in Judith Jarvis Thomson’s celebrated defense of abortion: “It would be indecent in the woman to request an abortion, and indecent in a doctor to perform it, if she is in her seventh month, and wants the abortion just to avoid the nuisance of postponing a trip abroad.” See Thomson, “A Defense of Abortion”, pp. 65–66.

48. Kimport et al., “Women’s Perspectives”, p. e516.

woman's obligation is not *to the fetus*. Her obligation is to those other members of the moral community who sincerely believe she has reason to act otherwise. Hence the argument does not presuppose that a fetus has moral status or that a pregnant woman has any obligation to it. Second, her obligation to view ultrasound images is *context-sensitive*. If no one in her moral community regards abortion as morally problematic, then there is no sense in seeing ultrasound images as serving a morally persuasive function, and so the argument generates no obligation to look at them.⁴⁹ The obligation is also contingent on those who disagree being engaged in genuine persuasion. It will help to keep this in mind in this final section, as I briefly discuss laws *compelling* women seeking abortion to view ultrasound images.

Suppose now that the argument of this paper is right: a woman seeking an abortion has an obligation to be open to moral persuasion via fetal ultrasound images. Does this imply that the state may justly compel a woman to view such images? It is not obvious that this result follows, or how it could. The general obligation to be open to moral persuasion does not imply that, in general, the state may justly compel individuals to attend to attempted persuasion. It is just absurd to imagine that the state could justly compel Bradley to sit and listen to Alana's views about the morality of his tipping practices, even if he is morally obligated to be open to her persuasion. So if compulsion for fetal ultrasound is to be justified, it must be because there is something *special* about the situation of abortion.

The United States Supreme Court, for one, appears to believe that abortion is special in this way. In its 1992 *Planned Parenthood vs. Casey* decision, the Court decided that state laws could mandate that descriptions of the effects of abortion on a fetus be included among the elements of informed consent. The language of the Court's plurality decision is informative here:

49. For example, this argument may apply differently in Japan, where abortion is very widely accepted, though not regarded as an entirely ethically neutral choice. See William R. LaFleur, *Liquid Life: Abortion and Buddhism in Japan* (Princeton, N.J.: Princeton University Press, 1992).

We also see no reason why the State may not require doctors to inform a woman seeking an abortion of the availability of materials relating to the consequences to the fetus, even when those consequences have no direct relation to her health. An example illustrates the point. We would think it is constitutional for the State to require that in order for there to be informed consent to a kidney transplant operation the recipient must be supplied with information about risks to the donor as well as risks to him or herself.⁵⁰

The Court appears to accept that the medical interests of a fetus do or could have similar status to the interests of an adult recipient of an organ transplant, and that the state may compel a woman to be directed to consider these interests. In fact, the Court goes beyond even this, declaring that "we permit a State to further its legitimate goal of protecting the life of the unborn by enacting legislation aimed at ensuring a decision that is mature and informed, even when in so doing the State expresses a preference for childbirth over abortion". Some American states appear to have taken this decision as applying to ultrasound. As of late 2017, three states (Louisiana, Texas, and Wisconsin) have laws requiring that all women seeking abortion undergo ultrasound and be shown the images.⁵¹

I do not believe that these laws are just, and I think that the arguments of this paper help to show why. Not only does the obligation to be open to persuasion by ultrasound *not* entail the justice of compulsory exposure to ultrasound images, but it in fact tells against such laws.

50. *Planned Parenthood vs. Casey* 505 U.S. 833 (1992), 882–883.

51. Guttmacher Institute (2017), "Requirements for Ultrasound", <https://www.guttmacher.org/state-policy/explore/requirements-ultrasound>. Three other state laws (including Oklahoma HB 2780, quoted below) have been struck down by lower courts for exceeding what is permitted by the *Casey* decision. In 2013, the Supreme Court declined to hear an appeal on the point.

The key point concerns the relationship between persuasion and compulsion. Moral persuasion is, as I have argued, an invitation to participate in the valuable enterprise of sharing reasons. It is essentially respectful of the agency of the person to whom it is addressed, and the obligation to be open to persuasion derives from reciprocating this respect. Compulsion, by contrast, is not an invitation to share reasons. Nor does compulsion respect agency. To compel a woman to view an ultrasound image is to express disregard for her ability to determine whether or not she ought to view the images, or even to imply that her judgment in this matter is irrelevant.

These attitudes are antithetical to the aims of persuasion. Once compulsion enters the picture, persuasion ceases to hold its distinctive value. It is therefore incoherent to attempt to compel someone to fulfill her obligation to be open to moral persuasion. It is not even possible to compel the mental states that would constitute openness to persuasion. Laws can compel a woman to submit to ultrasound scanning or to see the images that result, but they are simply incapable of compelling her to *engage* with these images. Some of the laws appear to acknowledge this point, indirectly and even sheepishly. Oklahoma's law, for instance, includes the following language:

Nothing in this section shall be construed to prevent a pregnant woman from averting her eyes from the ultrasound images required to be provided to and reviewed with her. Neither the physician nor the pregnant woman shall be subject to any penalty if she refuses to look at the presented ultrasound images.⁵²

In certain ways, this is worse than a law that *does* compel women to examine ultrasound images. Requiring the images to be displayed, even when a woman makes extremely clear that she refuses to view them, exposes the disregard for the woman's moral agency implicit in the law. Displaying ultrasound images at a woman's turned-away face is

52. Oklahoma HB 2780 (2010), section 2C, http://webserver1.lsb.state.ok.us/cf_pdf/2009-10%20ENR/hB/HB2780%20ENR.PDF.

a painfully literal way of showing that her active engagement is irrelevant to the purpose of the event. What might, absent compulsion, be an invitation to serious moral deliberation becomes instead an empty ritual, conducted for the sake of a particular political constituency, essentially oblivious to the agency of the woman whose unwilling body is displayed on the screen. Indeed, one suspects that the purpose of these laws has never been persuasion. They are aimed at pressure, humiliation, intimidation, threat. These laws are a repudiation of the value of moral persuasion or any form of reciprocal respect.

I have argued that there is a general obligation to be open to moral persuasion, that abortion does not present an exception to this obligation, and that fetal ultrasound imaging can indeed be a form of persuasion. I have now further claimed that, despite the foregoing arguments, laws that seemingly enforce this obligation are in fact unacceptable. I think the lesson here is that the obligation to be open to moral persuasion is incredibly fragile in application. No one is ever obligated to be open to harassment, condescension, intimidation, or compulsion. So long as these remain elements of public debate over abortion, any woman facing an abortion decision must be especially thoughtful if she is to find genuine persuasion amid the rhetorical violence. Though it derives from core aspects of mutual respect, the value of moral persuasion will be most deeply experienced only when we have created better laws, and a better political culture, than the ones we have now.⁵³

53. This paper has been in development for a very long time, so I have certainly forgotten some of those who helped me think it through. Let me offer my first thanks to you, forgotten interlocutors! Thanks also to audiences at the 2014 Bled Philosophical Conference and the Oxford Moral Philosophy Seminar, and to the students in my 2016 "Controversy and Politics in Bioethics" seminar at NYU. For generous feedback on drafts, I owe thanks to Nomy Arpaly, Daniel Dewey, Lawrence Hinman, Guy Kahane, Margaret Little, Jeff McMahan, William Ruddick, Amia Srinivasan, the editors, and several anonymous referees. Perhaps more than usual, it should be noted that the people listed here do not necessarily agree with what I've written — in fact most disagree quite strongly. But sincere, thoughtful disagreement may be the most helpful feedback of all.