

Abortion and the Struggle for Meaning

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Carol Sanger, [About Abortion: Terminating Pregnancy in Twenty-First-Century America](#) (2017).

Political polarization is so endemic in the United States today that we are all becoming experts in it. The compilation of moral, strategic, and tactical weaponry on either side of a deeply polarized issue is an art form in its own right. Once more or less limited to the “culture wars” issues of family and sexuality—the bread and butter of this Jotwell page—the right/left polarization of U.S. political culture has exploded into every issue touched by a hyper-active president who thrives on conflict. Maintaining a taste for critical engagement, while staying morally alive and strategically and tactically mobile, has gotten a lot harder since November 8, 2016.

Now comes [Carol Sanger](#) with a book about the premier culture wars issue—abortion—in which she strives to engage the polemics that beset the topic without being spoken by them. [Sanger’s own “position on the issue”](#) is clearly pro-choice, and she is sometimes willing to call out the other side when she thinks they are being cruel or acting in bad faith. But *About Abortion: Terminating Pregnancy in Twenty-First Century America* repeatedly pushes beyond its own polemical moments to engage dimensions of pregnancy and abortion so complex and surprising that they defy classification in the settled pro and con camps. “Pro-choice people are not murderers and pro-life people are not idiots.” (P. xiv.)

Thus, the first chapter offers one of Sanger’s most hopeful visions for the pro-choice cause: that the secrecy with which so many women guard their abortion history might melt away, allowing the debate to be conducted without the deeply distorting consequences of their massive silence. Sanger argues that the legal privacy of abortion law has morphed, in our culture, into secrecy that is often motivated by a recoil from the shame and stigma that attach to many women whose abortions are disclosed. She returns to the issue in the last chapter, where she compares this abortion silence with the crucial role that coming out played in the struggle for breast cancer treatment, for AIDS and HIV prevention and response, and for LGBT liberation. From there, she segues to reflections on Gordon Allport’s studies showing that racial integration—provided that racial characteristics were visible—reduced racial prejudice and stigma; and then travels to recent studies showing that women were more likely to disclose their miscarriages than their abortions, and more likely to disclose their abortion history to people expected to be supportive rather than to those who could be expected to react with judgment.

Sanger then reports that disclosing one’s abortion history can provide abortion opponents with a more nuanced understanding of why someone would choose an abortion. As these same studies determined, people to whom abortion secrets had been disclosed had a more accurate idea of the number and characteristics of women who have had abortions. For instance, they knew that many women who have had abortions are already mothers and/or identify themselves as religiously affiliated, defying the stereotypes of the “godless” woman and the woman who doesn’t like children. Accordingly, the final chapter ends with a rising tide of hope that the growing practices of abortion disclosure can transform the political atmosphere in which the abortion controversy resides, just as gay men and lesbians’ coming out one by one, but eventually en masse, transformed the possibility for their partial emancipation.

But Sanger is ever-attentive to the costs of this pathway. She wonders whether it is right to ask women to shoulder this burden; remembers that pro-gay outing campaigns applied moral and political pressure that overrode some people’s very deep and value-laden motives for living in the closet; acknowledges that visibility campaigns typically valorize only some of the invisible group, implicitly accepting continuing stigma for other group members; and examines the complex intermediate effects of an “open secrets” regime in which knowledge is both widely dispersed and persistently

disavowed. En route to considering the downsides of her own most hopeful prescription, Sanger manages to expose the sheer complexity of abortion as a practice and as a controversy. Sanger's goal is to attenuate the stigma not so that abortion will be evacuated of moral complexity, but so that the real moral struggle can take place in the open.

My favorite chapter—*You Had Body, You Died*—is a meditation on the ultrasound image of a woman's fetus. Many states require women seeking an abortion to undergo an ultrasound first, and some go further to require the woman to listen to a description of fetal anatomy and gestational age delivered by a physician or technician. Ultrasounds are thus not only a medical but a legal technology. They have "law in action" legality also, as judges hearing judicial bypass petitions often consider a minor applicant's willingness to examine the ultrasound image to be a sign that she is sufficiently mature to make the abortion decision for herself, so minors' lawyers advise them to do it, and so they often do.

Ultrasounds provide Sanger with the opening to reflect on one of the pro-choice movement's most resented passages in the Supreme Court's abortion decision-making, found in Justice Kennedy's rationale for his majority decision in [Gonzales v. Carhart](#). That case upheld the federal Partial-Birth Abortion Ban Act of 2003, which banned intact dilation and extraction abortions. Kennedy justified that outcome, in part, because, "[w]hile we find no reliable data to measure the phenomenon, it seems unexceptional to conclude some women come to regret their choice to abort the infant life they once created and sustained" when they later learn precisely how that abortion was performed.¹

While Justice Kennedy's term "regret" predetermines moral condemnation of abortion, Sanger argues that the term "loss" might go further to explain the complicated interaction between the visual representation of the fetus and a woman's decision to terminate a pregnancy. As Sanger explains, the ultrasound image of a soon-to-be aborted fetus becomes a particular kind of "family portrait": a "family photograph[] relating to extinction." She compares the experience of viewing the ultrasound to looking at wartime photographs of troops who, we know, were soon to die, and at secretly taken photographs of the inmates of [Cambodia's Tuol Sleng Prison](#) just before their execution by the Khmer Rouge. She also compares the ultrasounds—more in line with the "family portrait" genre—to nineteenth-century photographs of parents posed with their very recently [deceased children and "spirit photography"](#) in which the spirit of a deceased loved one was represented by a shadowy figure—often derived from a photograph taken while that person was still alive—standing next to the bereaved. ("Post-mortem photographs" trended when portrait photography was an expensive studio practice; it provided a way of capturing a family portrait of a child who died too young and too fast to be included in a less grief-saturated tableau.)

These reflections on parental loss and grief, and on how photographs mediate strong emotions, concede that some abortions are deeply mourned. They lead Sanger to consider ultrasounds that disclose severe fetal anomalies—that jump in a diagnostic heartbeat from a joyful family portrait to a portrait of loss, sometimes all the way to the loss produced by abortion itself. And she proceeds from there to abortion patients who want to see or hold the aborted fetus, to mourn its death by tenderly holding onto its embodiment. Some, she tells us, even requested the intact dilation and extraction abortion procedure precisely so that they could mourn this way over a mostly-intact body.

None of this is in the polarization playbook. There, those who defend the right to an abortion warn against conceding an inch to Justice Kennedy's projection of regret onto women seeking abortions and his assumption that the fetus is an "infant life." Sanger has taken heat for calling pro-lifers by their preferred name (rather than anti-abortion or anti-woman), but she does so because she takes it as axiomatic that many of them are precisely that: pro-life.

Readers will want to decide whether Sanger withholds her will to see, and indeed to feel, the weight of pro-life sub-arguments in the right places. The chapter that levies stern moral judgments at pro-life legislation most liberally is titled *Sending Pregnant Teenagers to Court*. She follows teenage girls through the process of deciding whether they want abortions, deciding they cannot get—or can't risk trying to obtain—parental permission, and facing the judicial bypass procedure. She's deep in the cases. The details she brings to the surface are indeed disturbing: judges dismissing girls' fear of parental punishment and violence, rejecting their decisions because they talk like teenagers or omit some surprise element that the judge deems to be essential to a mature consideration, condescending and preaching to

them as if they are entitled to serve in *loco parentis*.

But Sanger's argument is targeted not at denials in the judicial bypass process but at the procedure itself, which, she argues, often hides behind the best interests of the child standard to obscure a legislative and/or judicial will to preserve fetal life no matter what the cost to particular girls. She detects a will not only to control but to punish girls seeking judicial sign-off (P. 158, 181); a plan to humiliate and degrade them no matter what the outcome in their particular cases (P. 160-61): the process is "maddening" and "mean-spirited[]." (Pp. 172, 179.) Above all, no matter what the intent, it is harmful: it does humiliate, degrade, frighten, expose, and stigmatize young people seeking, after all, to exercise a constitutional right.

At least some of Sanger's opponents would say, in response, that they are saving fetal lives and that some costs imposed on the girls determined to terminate them are well worth it. This might be harsh; people with different views about the morality of abortion might not go so far; but it's not hypocritical.

But even here Sanger's cool lawyerly self is at the helm. She reminds her reader that, though the [Supreme Court has required some process](#) by which minors can access abortions besides parental consent or notice, that process does not have to be a judicial bypass. (P. 182.) Other means of making sure that minors have given serious and informed consideration to their decision—means that are not alienating, frightening, humiliating, sometimes predetermined to be futile, and literally judgy—could also satisfy the Court's requirement that there must be a substitute for parental consent. And she suggests several: foster parents, de facto parents, other relatives, designated mental health professionals. She does not object to statutes in Maine and Delaware that require these delegates to make sure the minor knows the alternatives to abortion and the support and services, however meager, available on those alternative pathways. Sanger refuses to be driven to a position she does not endorse—that minors should have the identical right-to-decide as adults. It's a subtle performance, and convincing to me. You could call it an offer to compromise with the more moderate elements of the pro-life movement.

About Abortion presents a complex picture of a practice that actual women experience in a vast array of ways. Sanger probably won't get the more human and attentive conversation about abortion that she is seeking—not anytime soon, at any rate—but this richly learned and beautifully voiced book is a genuinely critical engagement of a kind I believe we need more of right now.

1. *Id.* at 159. [?]

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