



Fetal Pain

Why the Pain of Unborn Children Should Prevent Abortions

written by:
**Mary
Summa,
J.D.**

THE IMAGE IS SEARED IN THE VIEWER'S MEMORY:

THE 12 WEEK-OLD UNBORN CHILD DARTS AWAY FROM THE SUCTION INSTRUMENT. WITH HIS HEART RATE RACING, THE INFANT STRUGGLES, AND FINALLY, WIDE-MOUTHED AND THRASHING ABOUT, IS TORN LIMB FROM LIMB BY THE ABORTIONIST'S INSTRUMENT. HIS HEAD REMAINS AND IS CRUSHED. ALL GOES STILL.

This scene in "The Silent Scream," a 1985 documentary about abortion, was barely noticed by the public or lawmakers. For almost 40 years, except for banning the gruesome partial birth abortion procedure, the majority of federal and state legislators have done nothing to stop the slaughter of unborn babies on the altar of women's rights.

Now, state legislators are finally responding. With medical proof on their side, states have begun to restrict abortion at 20 weeks, a threshold when, according to research, unborn babies experience pain.

The question for North Carolina and other states is whether they will respond to the cry of the most helpless among us, or surrender to the militant feminists who will defend their right to kill at all costs, including the loss of freedom they claim to defend.

The Politics of "Fetal Pain"

In a 1983 article in *Human Life Review*, Ronald Reagan introduced abortion-induced fetal pain to the American public. Although the topic was mentioned again in his book *Abortion and the Conscience of the Nation*, it failed to garner much political attention. A year later, in a 1984 speech at the Annual Convention of Religious Broadcasters, Reagan tried again. In that speech, he courageously declared what doctors had known for years—unborn children suffer agonizing pain when their lives are terminated by abortion. For the first time since the infamous *Roe v. Wade* decision, a sitting president publicly dared to humanize the first victim of abortion—the unborn child—and challenged legislators to respond to the pain and suffering of the unborn.

In the wake of that speech, Bernard Nathanson, a former abortionist turned pro-life advocate, produced and distributed, "The Silent Scream," a documentary that filmed an abortion. The film provided something revolutionary—a window into the womb, depicting a baby's struggle to live, and his ultimate demise at the hands of an abortionist.

Reagan and Nathanson had primed the pump to protect the most helpless among us. Yet, for more than a decade, the U.S. Congress and state legislatures refused to draw from the well.

Then, in 1996, Congressman Henry Hyde (R-IL) addressed the issue of fetal pain within the context of partial birth abortion by holding hearings on the effects of anesthesia administered to a mother during a partial birth abortion.¹ Four doctors, who were experts in their fields, testified that unborn babies as young as 20 weeks can feel pain during an abortion. Dr. Jean Wright, associate professor of pediatrics at the Emory University School of Medicine in Atlanta, testified that a fetus at 20 weeks "is more sensitive to pain than a full-term infant would be if subjected to the same procedures." Professor Robert White, Director of the Division of Neurosurgery and Brain Research Laboratory at Case Western Reserve School of Medicine testified that "the fetus ... 20 weeks and beyond, is fully capable of experiencing pain."²

Evidence of fetal pain extended beyond U.S. borders. A 1997 Royal College in England report recommended that doctors operating on or terminating the lives of unborn children at 24 weeks or later should consider anesthesia for the child.³ Responding to a study by the British Department of health, the college changed the recommendation to 20 weeks in 1999.⁴

Finally, in 2004, Senator Sam Brownback (R-KS) and Congressman Chris Smith (R-NJ) sponsored "The Unborn Child Pain Awareness Act" in both the U.S. Senate and House, respectively. These bills would have required abortion providers to inform mothers seeking abortion after 20 weeks gestation that "substantial evidence" exists that their unborn child will experience pain during an abortion. In

2006, Congressman Nathan Deal (R-GA) made a motion to suspend the House rules to bring the bill to the floor for a vote. Suspension of the rules required a two-thirds majority. The bill garnered 250 votes, a clear majority but not the two-thirds needed for consideration and passage.⁵ In 2012, the U.S. House held hearings on a bill to prohibit abortions in the District of Columbia after 20 weeks based on fetal pain. That bill was reported out of Committee, but failed to muster the two-thirds majority vote needed to suspend the House rules so that the bill could be considered and passed by the body.⁶

State Successes

Many state legislatures, excluding North Carolina, had been far more responsive in banning partial birth abortion beginning in the late 1990s, and responded as well with legislation regarding fetal pain. Beginning with Arkansas in 2005, 12 states have enacted laws requiring abortionists to inform women about fetal pain and/or to offer anesthesia for the unborn baby prior to the abortion.⁷

In 2010, the fetal pain issue developed enough political traction that state legislatures began prohibiting abortions after 20 weeks based on fetal pain. Beginning with Nebraska, 14 states have restricted abortion based on fetal pain. These laws challenge “viability” as the threshold standard for restricting abortions by restricting abortions at 20 or 24 weeks, based on the unborn child’s ability to feel pain, rather than the child’s ability to survive outside the womb. So far, the U.S. Supreme Court has only allowed states to restrict abortion after viability. The Arizona and Georgia laws are currently facing court challenges.⁸

Challenging the Fetal Pain Concept

In the midst of the fetal pain debate in the U.S. in 2005 and England in 2010, two distinguished medical organizations, one in each country, issued reports regarding fetal pain. In 2005, the American Medical Association published in their journal and in 2010 the Royal College of Obstetricians and Gynecologists published their reports entitled “Fetal Awareness” and “Termination of Pregnancy.” Both the JAMA report and the RCOG reports concluded that unborn children at 20 weeks gestation are incapable of feeling pain.⁹

Both reports’ conclusions, however, are based on a re-engineered definition of pain. Traditionally, pain has been defined in terms of organic pain, meaning the body’s response to some kind of attack. The authors of both studies redefined pain to require a “conscious perception” felt by the baby. This type of pain is sometimes termed “psychological pain” or the ability “to imagine harmful or unpleasant sensations, sense them coming, or remember them.”¹⁰ As Dr. J.C. Willke, a long time pro-life advocate and

past president of National Right to Life Committee has stated, that definition of “pain” is “simply wrong.”¹¹ A reaction to a painful stimulus does not require consciousness. Furthermore, Willke concluded, “you do not even need cerebral hemispheres” to experience physical pain.¹²

Supporting his conclusion, Willke cites the example of anencephalic babies. They are born without the higher parts of their brain and have only a brain stem. Nonetheless, if their diapers are wet or if you prick them with a pin, they will cry. Furthermore, a baby that is eight to 10 weeks of fetal age will withdraw her hand when stuck with a needle. Both reactions indicate that the child feels pain.¹³ To conclude that pain perception requires the development of a cortex defies clinical evidence.

The JAMA report raises additional concerns. The article failed to acknowledge that the two leading authors of the report, Susan J. Lee and Dr. Eleanor A. Drey, are strong advocates for abortion. Susan J. Lee was previously employed by the National Abortion Rights Action League (NARAL), and Drey, a strong critic of the partial-birth abortion ban, reportedly ran the largest abortion clinic in San Francisco,¹⁴ which, according to the same article, performs about 600 abortions per year between the 20th and 23rd weeks of pregnancy.¹⁵ Drey continues to be employed at the Options Center at San Francisco Hospital. In 2011, she was the recipient of the George Tiller, M.D. Abortion Provider Award, an award presented by the Physicians for Reproductive Choice and Health to doctors who provide “outstanding abortion services.”¹⁶

The Royal College of Obstetricians and Gynecologists’ bias favoring legalized abortion taints its report as well. Viewing induced abortion as “a healthcare need and an important health care intervention,”¹⁷ the college has opposed mandatory counseling prior to an abortion and has supported the distribution of the abortion pill outside of clinics.¹⁸



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Evidence of Fetal Pain

Ample evidence exists showing that babies at 20 weeks gestation, or younger, are able to feel pain. Dr. Jean Wright's 1996 assertion that the unborn child at 20 weeks feels pain more intensely than more mature unborn babies, has been corroborated by other notable experts. In 2004, Paul Ranalli, a neurologist at the University of Toronto and an advisory board member of the deVeber Institute for Bioethics and Social Research, wrote an article entitled, "A Pain Too Awful to Imagine." In that article, Ranalli, stated that, contrary to beliefs in the 1980s, evidence has been building for the past 20 years that supports the belief that an eight week-old unborn child's facial skin contains pain receptors. These receptors cover the child's body within several weeks. "Pain signals are sent from the receptors back along nerves to the spinal cord and then up to the brain's pain relay station, the thalamus, a connection that is fully wired by 14 weeks," according to Ranalli. By 20 weeks, "scientists have solid evidence of a fully-connected pain system" Ranalli continued.¹⁹

In 2005, the world-renowned expert on fetal pain, Dr. Kanwaljeet S. Anand of the University of Arkansas Medical Center, echoed the conclusions of Ranalli. In his testimony before the U.S. House Committee on the Judiciary, Anand concluded that the "mechanisms for conscious pain perception [exist] well before the third trimester of human gestation."²⁰

On May 12, 2012, before the same House Committee, Colleen Malloy, Assistant Professor of Neonatology at Northwestern University Feinberg School of Medicine testified that an unborn child as young as eight weeks post fertilization makes movements responding to stimuli. At 23 weeks, a fetus will respond to pain in the same manner as older babies "screwing up the eyes, opening the mouth, clenching hands, withdrawal of limbs."²¹

Furthermore, Malloy testified that medical advancement and technology has enabled younger prematurely born infants to survive. Citing a 2009 study, Malloy testified that 10 percent of babies born at 20 weeks, 53 percent born at 21 weeks, 67 percent born at 22 weeks, 82 percent born at 23 weeks and 85 percent born at 24 weeks have survived at least one year. Caring for those preemies has provided an

opportunity for doctors to witness their responses to pain and to treat neonatal pain consistent with the standard of care for neonatal intensive care units. Malloy further testified that there is no reason to believe that the child's reaction would be any different inside the womb than it is outside.²²

Malloy also concluded that the fetus and the baby born prematurely have a greater sensitivity to pain than their full-term counterpart. She based this conclusion on two pieces of evidence: 1) Studies showing that pain transmitters are in the spinal cord at early development but pain inhibiting transmitters are "sparse" until later development; and 2) The fact that premature infants require higher doses of medication to maintain "effective anesthesia."²³

Life Leads to Freedom

The right to life is the first of the God-given inalienable rights enumerated in the Declaration of Independence. Jefferson understood that the right to live is a fundamental right of freedom. A government that fails to protect life can no longer claim that its citizens are truly free.

The right to life is not just a political right but a recognition that all life is God-given. As a community and as individuals, Americans are called to cherish one another, protect each other, and respond to God's command to each and every person to "love your neighbor as yourself."²⁴

This nation's abandonment of a belief in the sanctity of human life has produced dire consequences. Legalized abortion strikes at the foundational belief in the dignity of the human person and, ultimately, weakens freedom. Further, for many, it has diminished the value of human life from something that should be protected to an obstacle that needs to be overcome in the quest for self-gratification.

The fetal pain issue before state legislatures strikes at the core of both individual and societal humanity. The overwhelming evidence proves that 20-week old unborn babies experience excruciating pain during an abortion. Will Americans sit back and do nothing? Is the backlash of the abortion rights advocates who line their pockets with the profits of this carnage so threatening that good people will do nothing to protect the most helpless in society? Humanity demands action. As former Congressman Hyde was quoted in an United States Senate resolution honoring his life:

Our moment in history is marked by a mortal conflict between a culture of life and a culture of death. God put us in the world to do noble things, to love and to cherish our fellow human beings, not to destroy them. Today we must choose sides.

Right now, the North Carolina General Assembly has the opportunity to choose life. Why wait? ❖

Mary Summa, J.D., is an attorney in Charlotte, North Carolina, who served as Chief Legislative Assistant to U.S. Senator Jesse Helms during the 1980s. For a footnoted version of this article, please visit ncfamily.org.

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Endnotes

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