Oral Testimony on "Bioethics and Fetal Tissue" Submitted to the U.S. House of Representatives

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Editor's Note: Paige Cunningham, Executive Director of The Center for Bioethics & Human Dignity submitted the following oral testimony on March 2, 2016 to the SELECT INVESTIGATIVE PANEL OF THE COMMITTEE ON ENERGY AND COMMERCE U. S. HOUSE OF REPRESENTATIVES regarding the ethics of fetal tissue use in research. For her written testimony, click here.

Madam Chair Blackburn, Ranking Member Schakowsky, and members of the Select Investigative Panel, thank you for the opportunity to speak about the ethics surrounding the use of fetal tissue for research.

My argument, which is expanded in my written testimony, is three-fold:

1. **Respect the fetus.** The fetus is a human being who is entitled to the protections of modern guidelines for medical research, and the foundational principle of respect for persons should apply to unborn children without distinction.
2. **You cannot take a life, then give away the body.** Participants in elective abortion, including the mother, are morally disqualified from consenting to donating the body, organs, or tissue of the now-dead fetus for research purposes.
3. **There are better, more ethical options.**

First, at the core of our concern is the fundamentally important question: who or what is the fetus? The biological facts are clear: the fetus is an organism, in charge of her own integral organic functioning, enduring and developing over time through all the stages of human existence: embryo, fetus, infant, toddler, adolescent, and adult. Rather than being a distinct?and lesser?form of human life, the fetus is a distinct human being at a particular stage of development. She is not a potential human being, but an actual human being. No one has the
Those who are responsible for her death have failed to recognize the fundamental principle of human dignity. They have no moral claim to donate or assign her body, organs, or tissues to others.

Even more, others should not profit from this wrongful act, whether for monetary gain, scientific reputation, better health, or even to claim, ?These cures are so wonderful. How could anyone oppose this research??

The regulatory scheme of protection for human subjects of medical research has continued to expand protections for research subjects, to ensure that their participation is voluntary and fully-informed, that the research is for their benefit, or, if not, causes no more than minimal harm, and that they may have access to the benefits of the research. Protections have been explicitly extended to most vulnerable populations, but not to the fetus-to-be-aborted. If she were being treated in utero for her own benefit, the HHS Policy for Protection of Human Subjects provides heightened protections for her well-being. The same HHS policy also provides special protections for prisoners, but not for the fetus-to-be-aborted.

Some have argued that we all share a moral obligation to contribute our organs or bodies after death for the good of society. Others claim the ?principle of proximity,? the view that we would want to help those most like us. In her analysis of fetal tissue transplantation, Kathleen Nolan elaborates on a problem with this view:

> In the setting of elective abortion a cruel irony thus emerges: fetuses that have been excluded from membership in the human community by a societally sanctioned maternal decision to abort now have obligations to that same community because of membership in it.[1]

We reject this ?cruel irony.?

Federal law does attempt to erect a barrier of sorts between the decision to abort and the decision to donate: for example, the procedure must not be altered in any way to accommodate researcher?s needs. And, elements of informed consent for tissue donations should include telling the donor?s family if the tissue will be used outside the US, whether it will be modified into a commercial product, the distinction between the ?for profit? and ?nonprofit? entities involved, and that she be given a copy of the form she signed.

Is the woman contemplating donation made aware of the specific body parts that will be harvested? The request may be for the unborn child?s eyes,[2] his brain,[3] his kidneys that might be transplanted into a rat,[4] his thymus, or pancreas.[5] But the greatest demand might be for his liver.[6] Women might find this factual information relevant to their decision.

How is effective informed consent accomplished in a setting where there is no established institutional oversight to ensure compliance with this regulation, as the vast majority of abortions take place in clinics that are outside the ordinary system of healthcare, and the accreditation requirements that exist in hospitals and ambulatory surgical centers. Further, abortion clinic owners rigorously resist health standards that are imposed on all other ambulatory surgical centers.

The history of the use of human bodies and parts in medical education and research reveals a disturbing pattern of first seeking access from the most disadvantaged in society. One national commission noted that there had been instances of abuse in the area of fetal research? and that the poor and minority groups may bear an inequitable burden as research subjects.[7] It would be enlightening to know whether abuse continues, and the demographic profiles of women who are solicited to donate.

There is yet another reason to oppose the current practices of fetal tissue research: it is unnecessary. Alternative, ethically-derived sources of cells exist, and they are working. My written testimony addresses this more fully,
and I will defer to other witnesses to speak to this more directly.

A just society has no moral or other claim on electively aborted fetal bodies, organs, or tissues. Fetuses scheduled for termination by induced abortion are among the vulnerable, if not the most vulnerable, populations in the human family. As has been said by many leaders in many ways, a society will be judged by how we treat our weakest, most vulnerable members. Curbing the current practices of fetal tissue research would be a small but very significant step toward honoring the dignity of all our members.

Thank you.


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