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“Bioethics and Fetal Tissue”

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Chairman Blackburn, and members of the panel, I thank you for the opportunity to present testimony regarding the bioethical considerations in the harvesting transfer and use of fetal tissues and organs.

I am a physician trained in both pediatrics and clinical bioethics. I have spent my entire professional career caring for infants and children. It was this interest and concern that led me to further study in bioethics, because I have always been concerned about the most vulnerable patients, those who need others to speak up for them, both at the beginning and at the end-of-life. I also have significant familiarity with research ethics, having spent 17 years as the chair of the IRB, a

board that monitors the rightness and the wrongness of medical research in order to protect human subjects. We took this aspect of our duties so seriously that I renamed our IRB the *Institutional Research Ethics Board*. Four years ago I was called by my mentor, Dr. Edmund Pellegrino, to take his place as director of the Center for Clinical Bioethics at Georgetown University. Our duties include ethics education for medical students and resident physicians, ethics consultation for patients and doctors at the hospital, as well as the promulgation of scholarly papers and public speaking. We focus on both clinical ethics, that which directly involves the good of patients, as well as addressing normative questions, those which involve right and wrong actions.

This is what we want young physicians to know: medicine is a moral enterprise. Our actions have consequences that can be good or bad for patients, and we must always focus on the patient's good and avoid doing harm. So what does this mean for the topic at hand? We're talking about bioethics and the fetus. In order to make any moral judgments, we would have to be clear on the moral status of the fetus. Obviously, this is an area in which society has not reached a consensus, but that does not mean we cannot make sound judgments on the topic. In a question of biomedical ethics, it is good to start with solid science. What do we know about the fetus with certainty? Well, first of all we know that it is alive, that it represents growing, developing, cells, tissues, and organs, all of which develop increasing complexity and biologic sophistication, resulting in an intact organism, a human baby. Of course, this growth and development does not cease with the production of the baby, but continues for many years afterwards. As can be seen by this description, the fetus is not only alive, but is demonstrably human. I'm not talking about a "potential human" in the way that some parents talk about their teenagers as potential adults. I am referring to the scientific fact that a fetus constitutes a live human, typically 46XX or 46XY, fully and genetically human. In fact, it is the irrefutable humanness of these tissues and organs that have made them be of interest to researchers and scientists.

So, if a fetus is clearly both alive and human, can we justify taking these tissues and organs for scientific experimentation? If so, under what circumstances, and what sort of consent or authorization should be required? In the past century, medicine has made incredible progress resulting from scientific studies involving human tissues and organs, resulting in the development of medications, vaccines,

and the entire field of transplantation medicine. Is there any difference between these accomplishments and those that would require the harvesting of body parts and tissues from the fetus? First, we would have to admit that not all scientific experimentation has been praiseworthy. Studies done by Dr. Mengele in Germany, and by American researchers in Guatemala and Tuskegee, were morally abhorrent, and any knowledge gleaned from these would be severely tainted. No one would want to associate our current scientific studies involving the human fetus with such egregious breaches of research ethics. All that it takes to avoid such a comparison is a consensus on the moral status of the fetus.

Those who have proceeded with experimentation and research on embryonic and fetal cells, tissues, and organs typically have obtained them as the result of an abortion. It is this stark fact that makes such scientific endeavors controversial, because they have proceeded without the aforementioned consensus on the moral status of the fetus. Because we know that the fetus is alive, and human, we must find some explanation for why it should not be treated with the same dignity that we accord all other human lives. The most frequent argument offered is that, although it is a human life, it is not a human *person*. Various criteria are offered for a definition of personhood, but none have been found universally acceptable. We thus have a standoff between those who would protect this early vulnerable human life and those that would deny that it deserves protection. In order to resolve such an ethical dilemma, the guiding principle is this: one is morally permitted to take such a life once you can demonstrate with moral certainty that the life is not human. It is a concept that can be exemplified by the situation faced by a hunter when he sees a bush shaking. He may sincerely believe that it is a deer in the bush, but if he kills it prior to determining with certainty what it is that he is killing, he will be morally responsible (as well as legally) if he has in fact killed the farmer's cow, or worse yet, the farmer. As we can see, two deeply held, but opposing viewpoints need not be resolved unless someone intends to act upon them. Then, the one who intends to take the action resulting in the death of the disputed entity must not do so unless they can first show with moral certainty that their perception of its moral worth is irrefutable. Those who would not disturb the normal progression of its life bear no such burden. It's my contention that such proof does not exist, and deliberate fetal destruction for scientific purposes should not proceed until it does.

Moreover, without disputing the arguable necessity of research on fetal tissue, I would also point out that harvesting it in such a way is unnecessary. Not only do cell lines already exist that were produced in such a fashion, but new cell lines could be obtained from fetal tissues harvested from spontaneous miscarriages. This is not a theoretical alternative. Georgetown University has a professor who has patented a method of isolating, processing, and cryopreserving fetal cells from second trimester (16 – 20 week gestation) miscarriages. These have already been obtained and are stored in Georgetown freezers.

Moreover, the present practices of obtaining fetal tissues and organs would seem to go against the procedures that have been approved for others who harvest tissues and organs donated for transplantation. First, we follow a strict rule, the dead donor rule. It states that vital unpaired organs cannot be obtained unless the donor has died a natural death. This obviously is not the case in an induced abortion. Moreover, such tissues or organs cannot be harvested without consent of the patient or their proper surrogate. In pediatrics, parents are considered the normal proper surrogate. However, this interpretation rests on the presumption that the parent is acting in the best interests of the individual. It is difficult to sustain such an interpretation when it is the same parent who has just consented to the abortive destruction of the individual from whom those tissues and organs would be obtained.

We are at a difficult time in our nation's history. We demonstrate much moral ambiguity in our approach to the human fetus. We have decided that we can legally abort the same fetus that might otherwise be a candidate for fetal surgery, even using the same indications as justification for acts that are diametrically opposed. We call it the fetus if it is to be aborted and its tissues and organs transferred to a scientific lab. We call it a baby, even at the same stage of gestation, when someone plans to keep it and bring it into their home. Language has consequences, but it can also reflect our conflicts. We are a nation justly proud of the progress and achievements of our biomedical research, but lifesaving research cannot and should not require the destruction of life for it to go forward. If we cannot act with moral certainty regarding the appropriate respect and dignity of the fetus, we cannot morally justify its destruction. Alternatives clearly exist that are less

controversial, and moral arguments exist that support our natural abhorrence at the trafficking of human fetal parts. Surely we can, and surely we must, find a better way.