

Planned Parenthood Has Broken No Laws, But Anti-Abortionists May Have

By Nick Gier

Millions of Americans have donated their organs for transplantation; or, alternatively, they have offered their entire bodies for medical research. For the latter many universities and private companies contract to pay for funeral expenses, and hospitals generally charge \$100-500 to prepare surgical tissue for medical research. The \$30-100 Planned Parenthood bills to process fetal tissue, released only with permission by the woman involved, is modest in comparison.

In 1993 Congress lifted the ban, put in place by the Reagan Administration, on using fetal tissue for medical research. Although it is strictly illegal to sell fetal organs, the 1993 legislation does allow “reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue.”

The bill passed the Senate on a voice vote, and 59 Republicans voted in the affirmative on the final vote in the House on May 23, 1993. Three Republicans—Mitch McConnell, Lamar Alexander, and Fred Upton—voted for this bill, but they are now calling for an investigation of Planned Parenthood and the defunding of their programs. McConnell says that it appears that Planned Parenthood has violated the law, but there is no evidence that their employees have done so.

Historical Support for a Woman’s Right to Choose

Critics would argue that the fetus is a separate person and therefore must somehow give consent. Our moral, religious, and legal traditions, however, have not recognized the fetus as a person until late in pregnancy. In 1973 the Supreme Court followed these historical precedents by ruling that the fetus is not a viable, independent being until end of the second trimester. Only then does the state have a legal right to act on behalf of the fetus and protect its life.

For the ancient Jews the fetus was not a person until it took its first breath. In Christian England before the Norman Conquest, a father could sell his own children as slaves if they were under seven years of age and he could lawfully kill any of his children “who had not yet tasted food.” Infanticide was widely practiced in all Christian countries until the 19th Century.

The great Catholic philosopher Thomas Aquinas agreed with the Supreme Court: the fetus is not a person until the third trimester. Jacques Maritain, 20th Century Catholic theologian, states: “To admit that the human fetus [is a person] from the moment of its conception sounds to me like a philosophical absurdity. It is absurd to call a fertilized ovum a baby.” Catholic canon law did not move the cut-off point back to conception until 1917.

English Common Law allowed abortions until the fetus “quicken in the womb,” which is essentially the Roe v. Wade viability criterion. In the 17th Century jurist Sir Edward Coke argued that the fetus is not a “reasonable creature [a person] until it is born alive.” Under the

influence of Sir William Blackstone (1732-80) the criterion of quickening returned as the accepted standard. Our founding thinkers would have followed Blackstone, and so should American judges who insist on conforming to the intentions of those who wrote the Constitution.

Some argue that we now know that the fetus has a unique genetic identity and this means that we must protect its life from conception on. Genetic identity, however, is not personal identity. Animal fetuses are genetically unique, but few people would call them persons because of it. Identical twins are the same genetically, but they are issued different birth certificates and Social Security numbers. Finally, most of those who oppose abortion believe that persons are created by God, not by biological mechanisms. For them a person is a spiritual being not just a material entity.

Recent Attempts to Over-Turn Roe v. Wade

Several states have required that abortions be performed earlier than the 24-26 weeks prescribed by Roe. All of these laws have now been ruled unconstitutional. A cut-off point of 20 weeks was based on the unfounded assumption that the fetus feels pain. A study published in the *Journal of the American Medical Association* demonstrated that the fetus does not feel pain until 28 weeks. Medical scientists in the United Kingdom have come to the same conclusion.

In Arkansas abortions must be performed within 12 weeks, and, incredibly enough, North Dakota legislators have stipulated 6 weeks, using a fetal heart beat as the standard. Animal fetuses, however, have hearts and they also feel pain. Rational abortion legislation requires that we must stipulate a moral and legal distinction between animals and human persons; otherwise we would be compelled to extend a right to life to animals.

The Videos: Some Graphic Language but no Selling of Fetuses

In the uncut video taken by anti-abortion activists, Dr. Deborah Nucatola of Planned Parenthood insists we “are not looking to make money by doing this,” and she turned down offers of \$1,600 by fraudulent buyers for two fetal organs. Planned Parenthood has apologized for Nucatola’s callous tone in discussing fetal organs. When, in another video, Dr. Mary Gatter said that she was going to buy a Lamborghini with the small processing fees, some people somehow did not get the obvious irony in this ludicrous comment.

Those who actually do fetal tissue research are much more sensitive. Microbiologist Nathalia Holt, who used to work in a lab at the University of Southern California, confesses that the mood was always somber when the white boxes arrived every morning. Holt writes: “Every time I worked with a fetal liver, I imagined that somewhere in California a woman had made the agonizing, heartbreaking decision to end her pregnancy. Yet she had also donated her aborted fetus to medical research. A promise had been made; these cells were not simply trash.”

Fetal Tissue Essential in Biomedical Research

Fetal tissue has been essential in investigating the causes and cures of diseases such as Parkinson's, Alzheimer's, and cystic fibrosis. It has been particularly valuable in producing vaccines against Hepatitis A, measles, rubella, chicken pox, and shingles. A polio vaccine was created from fetal kidney cells, and the researchers were awarded the 1954 Nobel Prize for Medicine. Paul Offit, director of the Vaccine Education Center in Philadelphia, declares that "cells from one fetus have no doubt saved the lives of millions of people." In 2014 alone the National Institutes of Health spent \$76 million on fetal research.

Most significantly, using fetal tissue has aided the investigation of infant complications and diseases. Writing for the *Washington Post* Danielle Paquette states that "scientists use it to better understand fetal anatomy, and how it may react to certain treatments. The liver is particularly helpful when assessing whether a medicine may be toxic." Michelle Goldberg of *The Nation* contends that "refusing to use fetal remains for research would do nothing to curb abortion. It would only make sure that nothing positive could come from abortions that will happen regardless."

Deception, Violence, and Murder by Operation Rescue

The anti-abortion activists introduced themselves to Nucatola and Gatter as representatives of the Center for Medical Progress, which has direct connections to the militant anti-choice groups Action Live and Operation Rescue. In applying for its tax exempt status CMP deceived the IRS by claiming that it was a biomedical research organization. Since its founding in 2013, it has not filed the necessary 990 forms for non-profit organizations. Kamala Harris, California's Attorney General, has launched an investigation into "allegations about individuals impersonating corporate officials from a fake biologics company." She wants to know if any state laws have been violated.

Live Action is associated with Operation Rescue, which has held protests at abortion clinics all over the nation. Cheryl Sullenger, Operation Rescue's senior advisor, served a two-year prison term for attempting to bomb a clinic in 1987. Operation Rescue led a multi-year campaign against abortion doctor George Tiller, who was assassinated by Scott Roeder at church in 2009. Roeder was active in Operation Rescue, and he claims that Troy Newman, president of Operation Rescue and secretary for the so-called Center for Medical Progress, encouraged him to use violence to protect the lives of the unborn.

Anti-abortion groups such as Operation Rescue maintain that they model their actions on the civil rights movement, and that they are standing up for fetal rights. There are strict principles for civil disobedience, and one of them is that one openly and nonviolently defies what one perceives to be unjust laws. Mahatma Gandhi also immediately pled guilty in court and demanded that the judges send him to prison. Bombing abortion clinics, shooting doctors, setting up fake companies, and doing undercover videography are of course far from the ideals of civil disobedience.

Attempts to Defund Fail, but Harassment Will Continue

Earlier this week Senate Republicans attempted to rush through legislation defunding Planned Parenthood. Fortunately, Senate leader McConnell got only 53 of the 60 votes he needed to bring the bill to a vote. Sadly, this will not stop anti-abortionists from harassing America's most effective family planning organization, 97 percent of whose funds go to cancer screening, contraception, and sexually transmitted diseases.

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