DR. ALÍ LOZADA
PRESIDENT OF THE CONSTITUTIONAL COURT OF ECUADOR

Case Nº 41-22-IN and Accumulated

***AMICUS CURIAE*: CHARLOTTE LOZIER INSTITUTE**

Table of Contents

I. Court appearance

Mary E. Harned, in my capacity as an Associate Scholar, on behalf of the CHARLOTTE LOZIER INSTITUTE pursuant to Article 12 of the Organic Law of Jurisdictional Guarantees and Constitutional Control ("LOGJCC"), I hereby submit the following amicus curiae:

II. General notions of Charlotte Lozier Institute

The Charlotte Lozier Institute is America's premier science and data institute on issues pertaining to the life of the unborn. Founded in 2011, the Charlotte Lozier Institute is devoted to statistical research that underscores the dignity of every human life. Through scientific and medical research, data analysis, and legal and legislative testimony, CLI educates policymakers and the public on the value of life from fertilization to natural death.

Our work is built on the contributions of staff members and our network of over 70 Associate Scholars, who are credentialed experts in medicine, statistical analysis, sociology, public health, law, and social services for women and families.

III. Introduction

In 1973, the U.S. Supreme Court established a constitutional right to abortion, striking down state laws that had been drafted to protect unborn children and their mothers from indiscriminate abortion. This Court decision also severely restricted federal or state legislators from enacting various legal protections for the unborn child,[1] and ignited nearly five decades of costly litigation, political division, and social unrest. That changed in 2023, when the Court reversed *Roe v. Wade*, declared that abortion is not a constitutional right, and returned the authority to regulate abortion to elected legislators at the state and federal level.[2] A wide range of

[1] *Roe v. Wade*, 410 U.S. 113 (1973).
[2] *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022).

laws are now being tested in elective bodies—from nearly complete abortion limits to state constitutional referenda incorporating abortion rights in state constitutions. Since the reversal of *Roe*, it is the voters and their elected representatives, not appointed judges, who decide what limits may be placed on abortion and other protections for the unborn and their mothers.

Like the U.S. Supreme Court in 1973, Ecuador's Constitutional Court has inserted itself into the abortion debate, albeit in a less intrusive manner. Through the Organic Law Regulating the Voluntary Interruption of Pregnancy (LORIVE), amended by President Guillermo Lasso, the National Assembly has codified the requirements for access to abortion following the parameters established by the Constitutional Court, while weighing the necessary protections to protect the next generation, and their mothers, from the indiscriminate practice of abortion. These necessary protections established in the LORIVE are being challenged before the Court.

The Charlotte Lozier Institute is a nonprofit research and education organization committed to bringing modern science to bear in life-related policy and legal decision-making. CLI states that laws governing abortion should be informed by the most current medical and scientific knowledge on human development. CLI submits this *amicus curiae* in support of the LORIVE, with a focus on Articles 18, 21, and 25, which, respectively, limit voluntary interruption of pregnancy to 12 weeks' gestational age based on Last Menstrual Period (LMP) (equivalent to post-conception week 10), require ultrasound to determine gestational age before abortion, and prohibit the exploitation of fetal tissue following abortions. Each of these provisions is justified to protect the next generation of Ecuadorians and their mothers, is consistent with international state practice, and follows leading medical standards for maternal protection and early human development.

IV. An ultrasound requirement is justified because dangers from abortion increase with advancing pregnancy.

Article 21 of the LORIVE requires that before a rape victim can request the practice of consensual abortion, the attending surgeon must perform an ultrasound to determine the gestational age of the unborn child according to commonly accepted medical and embryological parameters. The applicant must then be informed of the gestational age of the unborn child and the determination of the gestational age must be recorded in detail in the medical history of the victim and the physician must record the clinical parameter used.

To protect the health of a woman considering abortion, it is critical that an accurate assessment of gestation and pregnancy location (*i.e.*, that the unborn child is in the uterus) is made before the abortion, and an ultrasound is the best means for making that determination.[3] The dangers to women from surgical abortion are summarized by the American Association of Pro-Life Obstetricians and Gynecologists (AAPLOG):

> "Severe physical injuries occur from surgical abortion. Experienced abortionists not infrequently damage adjacent organs or major blood vessels as they insert suction curettes or grasping forceps into the soft, gravid uterus. Injury to adjacent major blood vessels and/or gynecologic, genitourinary or gastrointestinal organs requires emergency abdominal surgical exploration to perform a hysterectomy, bowel resection, bladder

[3] *See AAPLOG Statement on the Necessity for Ultrasound Before Elective Procedures on the Pregnant Woman*, American Association of Pro-Life Obstetricians and Gynecologists (Dec. 1, 2011), https://aaplog.org/aaplog-statement-on-the-necessity-for-ultrasound-before-elective-procedures-on-the-pregnant-woman/; *See also* the American College of Radiology (ACR) -the American College of Obstetricians and Gynecologists (ACOG) – the American Institute of Ultrasound in Medicine (AIUM) – the Society for Maternal Fetal Medicine (SMFM) – the Society of Radiologists in Ultrasound (SRU) *Practice Parameter for the Performance of Standard Diagnostic Obstetrical Ultrasound*, Resolution 36, Revised 2023, https://www.acr.org/-/media/ACR/Files/Practice-Parameters/us-ob.pdf, listing the following non-exhaustive list of indications for first trimester ultrasound examination:

1. Confirmation of the presence of an intrauterine pregnancy
2. Confirmation of cardiac activity
3. Estimation of gestational age
4. Diagnosis or evaluation of multiple gestations including determination of chorionicity and amnionicity
5. Evaluation of a suspected ectopic or abnormally implanted pregnancy
6. Evaluation of pelvic pain
7. Evaluation of suspected gestational trophoblastic disease
8. Measuring the NT and nasal bone when part of a screening program for fetal aneuploidy
9. Assessing for fetal anomalies detectable in the first trimester, such as anencephaly
10. Imaging as an adjunct to chorionic villus sampling, embryo transfer, and localization and removal of an intrauterine device
11. Evaluation of pelvic masses and/or uterine abnormalities

> repair, or other repair. Death from induced abortion can occur due to vaginal and intra-abdominal hemorrhage, sepsis, thrombotic emboli, intravascular amniotic or air emboli, complications of anesthesia and cardiac or cerebrovascular events".[4]

AAPLOG further explains that the forcible opening of a cervix that would have otherwise remained closed until natural childbirth can result in cervical trauma and compromise future pregnancies. A cervix weakened by abortion may dilate early in a subsequent pregnancy, increasing the risks of premature rupture of membranes, intrauterine infections, and sepsis.[5] Instrumental trauma to the endometrium which can occur in surgical abortion can also lead to Placenta Accreta Spectrum (PAS), where the placenta invades the cervix, uterine wall, or other organs. PAS can cause massive hemorrhage that leads to heavy blood transfusions or death.[6]

Drug-induced abortion (also known as chemical abortion or medical abortion) carries risks as well, including life-threatening hemorrhage, infection, continued pregnancy (necessitating additional drugs or surgery), retained tissue, need for emergency surgery, and death.[7]

While present in early pregnancy, health risks to women related to surgical and drug-induced abortion increase as pregnancy advances because the unborn child has anatomical and physiologic changes that lead to greater technical complexity in the abortion procedure.[8] Without

---

[4] *Induced Abortion & the Increased Risk of Maternal Mortality*, American Association of Pro-life Obstetricians and Gynecologists, Professional Ethics Committee, Committee Opinion 6, p. 7 (Aug. 13, 2019), https://aaplog.org/wp-content/uploads/2020/01/FINAL-CO-6-Induced-Abortion-Increased-Risks-of-Maternal-Mortality.pdf, citing Lalitkumar S, Bygdeman M, Gemzell-Danielsson K. 2007. Mid-trimester induced abortion: a review. Hum Reprod Update. 2007 Jan-Feb;13(1):37-52. Epub 2006 Oct 17. DOI:10.1093/humupd/dml049. Free full text: https://academic.oup.com/humupd/article/13/1/37/751686; Autry A, Hayes E, Jacobson G, Kirby R. 2002. A comparison of medical induction and dilation and evacuation for second trimester abortion. Am J Obstet Gynecol. 2002 Aug;187(2):393-7. https://www.ajog.org/article/S0002- 9378(02)00140-0/fulltext; Niinimaki M, Pouta A, Bloigu A, Gissler M, Hemminki E, Suhonen S, Heinkinheimo O. 2009. Immediate complications after medical compared with surgical termination of pregnancy. Obstet Gynecol. 2009 Oct;114(4):795-804. Doi: 10.1097/AOG.0b013e3181b5ccf9. Free full text: https://journals.lww.com/greenjournal/abstract/2009/10000/immediate_complications_after_medical_compared.14.aspx; Cunningham F. *Williams Obstetrics*. 19th edition. Appleton & Lange. Norwalk, CT. 1993; 81-246.

[5] *Induced Abortion & the Increased Risk of Maternal Mortality*, American Association of Pro-life Obstetricians and Gynecologists, Professional Ethics Committee, Committee Opinion 6, p. 7 (Aug. 13, 2019), https://aaplog.org/wp-content/uploads/2020/01/FINAL-CO-6-Induced-Abortion-Increased-Risks-of-Maternal-Mortality.pdf.

[6] Id. *citing* Klemetti R, Gissler M, Niinimaki M, Hemminki E. 2012. Birth outcomes after induced abortion: a nationwide register-based study of first births in Finland. Hum Reprod. 2012 Nov 27(11)3315-20. doi: 10.1093/humrep/des294. Epub 2012 Aug. 29. Free full text: https://academic.oup.com/humrep/article/27/11/3315/809139?login=false

[7] *See* 2016 Mifeprex label, https://www.accessdata.fda.gov/drugsatfda_docs/label/2016/020687s020lbl.pdf.

[8] *Induced Abortion & the Increased Risk of Maternal Mortality*, supra.

an ultrasound, an abortion provider may begin an abortion procedure on a woman not knowing that her pregnancy has advanced beyond the legal limit *and/or* that the procedure he is using will not successfully or safely abort his patient's unborn child. The relative risk of death from abortion is 14.7 times higher at 13-15 weeks, 29.5 times higher at 16-20 weeks, and 76.6 times higher after 21 weeks' gestation compared to earlier abortions.[9] In fact, the risk of death from abortion increases by 38% each week beyond eight weeks.[10]

Abortions in pregnancies that have reached around 14 weeks' gestation and have thus advanced beyond the 12-week gestational limit set by the LORIVE are most likely to be performed using the dilation and evacuation (D&E) procedure. Again, the unborn child after the first trimester has grown and developed to the extent that he is too large to be removed from the womb through a suction cannula.[11] D&E abortions are either non-intact or intact. With non-intact D&E, the unborn child is dismembered in the womb and removed piecemeal. With intact D&E, the unborn child is delivered feet first and then the abortionist evacuates the baby's brain with a vacuum causing the large skull to collapse and become removable.[12] Both versions of the procedure are dangerous to the mother, including risks of hemorrhage, cervical laceration, and retained body parts and/or tissue that can lead to infection.[13]

---

[9] *The Harms of Abortion After 15 Weeks: The Medical Perspective,* American Association of Pro-Life Obstetricians & Gynecologists, https://aaplog.org/wp-content/uploads/2022/09/15-week-fact-sheet.pdf, citing L.A. Bartlett, et al., "Risk Factors for Legal Induced Abortion-Related Mortality in the United States," Obstetrics & Gynecology 103:4 (2004): 729-737, accessed December 3, 2018, https://www.ncbi.nlm.nih.gov/pubmed/15051566.

[10] *Id.* citing Bartlett L, Berg C, Shulman H. 2004. Risk factors for legal induced abortion related mortality in the U.S. Obstet Gynecol. 2004 Apr;103(4):729-37. DOI:10.1097/01.AOG.0000116260.81570.60 https://www.ncbi.nlm.nih.gov/pubmed/?term=Obstet+Gynecol+103%3A729-737; Sykes P. 1993. Complications of termination of pregnancy: a retrospective study of admissions to Christchurch Women's Hospital, 1989 and 1990. N Z Med J. 1993 Mar 10;106(951):83-5; Grossman D, Blanchard K, Blumenthal P. 2008. Complications after second trimester surgical and medical abortion. Reprod Health Matters. 2008 May;16(31 Suppl):173-82. doi: 10.1016/S0968- 8080(08)31379-2. https://www.tandfonline.com/doi/full/10.1016/S0968-8080(08)31379-2.

[11] *Induced Abortion & the Increased Risk of Maternal Mortality*, supra at 6, citing ACOG. 2013. Practice bulletin 135: second trimester abortion. Obstet Gynecol. 2013 Jun;121(6):1394-406.
DOI: 10.1097/01.AOG.0000431056.79334.cc Free full text: https://journals.lww.com/greenjournal/Citation/2013/06000/Practice_Bulletin_No__135___Second_Trimester.42.aspx.

[12] *Induced Abortion & the Increased Risk of Maternal Mortality*, supra at 6.

[13] *Induced Abortion & the Increased Risk of Maternal Mortality*, supra at 6, citing Hilgers T, Horan D, Mall D. Abortion related maternal mortality: an in-depth analysis. *New Perspectives on Human Abortion*. University Publications of America. Frederick, Maryland. 1981;69-91; Peterson W, Berry F, Grace M. 1983.Second-trimester abortion by dilation and evacuation: an analysis of 11,747 cases. Obstet Gynecol. 1983 Aug;62(2):185-90.
https://www.ncbi.nlm.nih.gov/pubmed/?term=.Second-trimester+abortion+by+dilation+and+evacuation%3A+an+analysis+of+11%2C747+cases.

The risks from abortion using abortion-inducing drugs also increase with gestation. Mentula et al. found that "in comparison with the first trimester [chemical abortion], second trimester [chemical abortion] was associated with an increased risk of surgical evacuation and infection."[14] Specifically, surgical evacuations were required in 38.5 percent of second-trimester chemical abortions compared to 7.9 percent in first-trimester chemical abortions. While hemorrhage was greater in first-trimester abortions, hemorrhage with surgical evacuation occurred in 8.3 percent of second-trimester chemical abortions, compared to 3.2 percent of first-trimester abortions. Further, infections occurred in four percent of second-trimester chemical abortions, compared to 1.9 percent of first-trimester chemical abortions, and infections with surgical evacuation occurred in 2.4 percent of second-trimester chemical abortions, compared to 0.8 percent of first-trimester chemical abortions.[15]

Ultrasound protects against additional risks from chemical abortion, like undiagnosed ectopic pregnancy. Ectopic pregnancy (*i.e.,* extrauterine pregnancy; pregnancy outside the uterus), which cannot be ended with mifepristone,[16] can rupture the fallopian tube as the pregnancy progresses, causing bleeding, severe pain, or death. **Ectopic pregnancies can only be reliably diagnosed through an ultrasound**. If a woman with an undiagnosed extrauterine pregnancy is given mifepristone, she may believe the symptoms for ectopic pregnancy, such as abdominal pain and vaginal bleeding, are simply the anticipated side effects of drug-induced abortion, which are similar.[17]

[14] Maarit J. Mentula, et. al, Immediate adverse events after second trimester medical termination of pregnancy: results of a nationwide registry study*, Human Reproduction*, Vol. w26, No. 4 pp 927-932, 930, Table II, 2011.
[15] *Mentula, et. al.,* at 931.
[16] *See* Ingrid Skop, M.D., *The Evolution of "Self-Managed" Abortion: Does the Safety of Women Seeking Abortion Even Matter Anymore?* Issue 77, On Point Series, the Charlotte Lozier Institute (Mar. 2022).
[17] *See* Skop, supra, citing Atrash H.K., et al. (1990). Ectopic pregnancy concurrent with induced abortion: Incidence and mortality. *American Journal of Obstetrics & Gynecology*, 162(3), 726-730. doi: 10.1016/0002-9378(90)90995-j.

As of December 31, 2022, at least 97 women with ectopic pregnancies in the United States had been given mifepristone.[18] Of these women, at least two were reported to have bled to death from an undiagnosed ectopic pregnancy.[19] Further, a recent publication in the New England Journal of Medicine documents a case where a woman visited the emergency department with severe abdominal pain. She had consumed mifepristone and misoprostol that she had obtained from the internet. Six days later, she returned to the emergency department with increased pain. It was determined that she had a ruptured right tubal ectopic pregnancy.[20] In fact, about half of women who experience ectopic pregnancy do not have any risk factors.[21] Yet, a woman is 30% more likely to die from an ectopic pregnancy while undergoing an abortion than if she had an ectopic pregnancy but had not sought an abortion.[22]

A woman's mental health is also impacted by abortion. An ultrasound provides a window into the womb so that a woman can make an informed decision. An ultrasound may reveal that she suffered or will likely suffer an early miscarriage, which occurs in 15% of recognized pregnancies. When an unborn child is healthy, it is critical for a woman to see her developing unborn child, his movements, and his heartbeat. Otherwise, she may suffer mental anguish later in life when she learns how developed her unborn child was at the time of the abortion.[23]

Induced abortion, whether by surgery or the use of abortion-inducing drugs, is a violent and unnatural procedure that becomes more dangerous to a woman as her pregnancy progresses.

---

[18] Mifepristone U.S. Post-Marketing Adverse Events Summary through 12/31/2022, TTT # 2022-2468, NDA 020687, ANDA 091178, https://www.fda.gov/media/164331/download#:~:text=These%20fatal%20cases%20were%20associated,"multivisceral%20failure%3B"%20thrombotic%20thrombocytopenic.

[19] *Id.*

[20] Isabel Beshar et al., *Discovery of an Ectopic Pregnancy after Attempted Self-Managed Abortion*, 388 New Eng. J. Med. 278, 278 (2023), https://www.nejm.org/doi/pdf/10.1056/NEJMc2214213.

[21] *Ectopic Pregnancy,* Frequently Asked Questions, American College of Obstetricians and Gynecologists, https://www.acog.org/patient-resources/faqs/pregnancy/ectopic-pregnancy.

[22] Skop, supra, *citing* Atrash H.K., et al. (1990). Ectopic pregnancy concurrent with induced abortion: Incidence and mortality. *American Journal of Obstetrics & Gynecology*, 162(3), 726-730. doi: 10.1016/0002-9378(90)90995-j.

[23] Declaration of Ingrid Skop, M.D. in Opposition to the Motion for Preliminary Injunction , 42-45, *Planned Parenthood of Montana v. State of Montana*, DV-21-00999 (Sept. 7, 2021).

Without performing an ultrasound, an abortion provider cannot be certain how far his patient's pregnancy has advanced, and therefore cannot accurately determine the appropriate procedure, the level of risk to his pregnant patient, or whether performing the abortion complies with the law. Further, relying on a patient's determination of gestational age is insufficient because women often "underestimate gestational age by a month or more."[24]

V. A 12-week gestational age limit for abortion is both medically justified and consistent with international standards.

Article 18 of the LORIVE limits the guarantee of access to voluntary interruption of pregnancy due to rape, except in the case of persons with mental disability, to up to twelve (12) weeks' gestation. For mentally disabled rape victims, "best medical practices" will be observed and adhered to. The law requires that the gestational age shall be solely and exclusively verified by a health professional after examinations. If the pregnancy is within the authorized number of gestational weeks and additional requirements in the law are met, the voluntary interruption of pregnancy due to rape may be performed.

It is a scientific fact that a unique human being forms at conception. Human development is a continuum. The earliest human embryo starts as a single cell, grows to nearly one billion cells by the end of the embryonic period, and has 90% of her body structures by the end of the 10th embryonic week.

At the beginning of the fetal period starting in the 11th week of pregnancy, an unborn child shows complex behaviors and substantial brain development.[25] Her heart has been beating since week 6;[26] nearly all her major organs, including lungs, liver, kidneys, stomach, and pancreas

[24] *Id.*, *citing* Ellertson C., et al. (2000). Accuracy of assessment of pregnancy duration by women seeking early abortions. *Lancet*, 355(9207), 877-881. doi: 10.1016/S0140-6736(99)10170-3. Almost 15% of Atlanta women were in error by more than two weeks when calculating gestation based on LMP. Mifepristone's failures (requiring subsequent surgery) and complications indisputably increase with increasing gestational age.
[25] *The Voyage of Life, Week 11,* Charlotte Lozier Institute, https://lozierinstitute.org/fetal-development/week-11/ (last visited Jan. 9, 2024).
[26] *The Voyage of Life, Week 6,* Charlotte Lozier Institute, https://lozierinstitute.org/fetal-development/week-6/ (last visited Jan. 9, 2024).

have formed;[27] she moves and is responsive to touch;[28] her fingers and toes are free to wiggle, her heart activity is similar to that of a newborn, she has a working digestive system and kidneys;[29] her body produces a neurotransmitter related to pain signaling, and she shows external genitalia development.[30]

By 12 weeks' gestation, her heart has beat over 10 million times, and she is extremely active with complex behaviors that include thumb-sucking, yawning, swallowing, stretching, making little fists, and scratching her head. She can bend her elbows and join her hands together, squint her face, and grasp and point her toes. She is even making intermittent breathing motions. By 12 weeks, an unborn child's face is also recognizable with distinct facial features. Perhaps most significantly, brain connections that last into adulthood have formed as early as 12 weeks.[31] During these early weeks, when a mother may not even be visibly pregnant, her unborn child takes on an unmistakably human form.

It is therefore not surprising that gestational restrictions on abortion at the end of the first trimester of pregnancy or early in the second trimester (12 to 15 weeks) are an international norm. A survey of comparative law found that 47 of 50 European countries, independent states, and regions either prohibit "elective abortions" (terminations performed without restriction as to reason) or limit elective abortion to 15 weeks or earlier. Of those, 27 limit elective abortion to 12 weeks' gestation.[32] Another report determined that of the 33 countries in Latin America, the vast majority have gestational restrictions on abortion and/or only permit abortion in very limited circumstances (*e.g.,* life, health, or in cases of rape).[33]

---

[27] *The Voyage of Life, Week 7,* Charlotte Lozier Institute, https://lozierinstitute.org/fetal-development/week-7/ (last visited Jan. 9, 2024).
[28] *The Voyage of Life, Week 8,* Charlotte Lozier Institute, https://lozierinstitute.org/fetal-development/week-8/ (last visited Jan. 9, 2024).
[29] *The Voyage of Life, Week 10,* Charlotte Lozier Institute, https://lozierinstitute.org/fetal-development/week-10/ (last visited Jan. 9, 2024).
[30] *The Voyage of Life, Week 11,* Charlotte Lozier Institute, https://lozierinstitute.org/fetal-development/week-11/ (last visited Jan. 9, 2024).
[31] *12 Facts at 12 Weeks*, Issue 12, On Science Series, Charlotte Lozier Institute (Apr. 25, 2023), https://lozierinstitute.org/12-facts-at-12-weeks/.
[32] Angelina B. Nguyen, J.D., *Mississippi's 15-Week Gestational Limit on Abortion is Mainstream Compared to European Laws*, Issue 63, On Point, Charlotte Lozier Institute (July 2021), https://lozierinstitute.org/wp-content/uploads/2021/07/On-Point-63.pdf.
[33] Jonah McKeown, *What do Abortion Laws Look Like in Latin America?*, Nat'l Catholic Register (Feb. 28, 2022), https://www.ncregister.com/cna/what-do-abortion-laws-look-like-in-latin-america-here-s-a-country-by-country-map.

Given the advanced development of an unborn child at 12 weeks and common practice worldwide of setting gestational limits on abortion and limiting abortion to specified circumstances, the LORIVE's 12-week gestational limitation and restriction to cases of rape are medically and legally justified.

VI. A prohibition on the commodification of fetal remains following abortion is ethically justified.

Article 25 of the LORIVE provides that "it is forbidden to the personnel of the national health system … [t]o carry out acts that have as an object the onerous intermediation, or negotiate by any means, or transfer organs, tissues, fluids, cells, anatomical components or bodily substances, extracted or obtained from the corpses of aborted unborn babies." This provision is critical to prevent the commodification of unborn babies' bodies which can lead to pressure to abort.

The United States has a patchwork of statutes and regulations enacted to establish ethical parameters around both the use of human tissue or organs in scientific research and the transplantation of human tissue or organs. As discussed in the Final Report of the United States House of Representatives Select Investigative Panel of the Committee on Energy and Commerce (which was formed to investigate whether laws prohibiting the sale of fetal tissue for profit were being broken), the laws that govern these concerns include "(1) laws protecting human research subjects and patient privacy; (2) laws regulating anatomical gifts for transplantation, therapy, research, and education; (3) laws protecting late-term and born-alive infants; and (4) laws pertaining to public funding for fetal tissue research and abortion providers."[34]

[34] Compilation of Activities of the Select Investigative Panel of the Committee on Energy and Commerce, Final Report, 114th Congress, 2nd Session, Committee Print 114-A at 26 (April 2017), https://www.govinfo.gov/content/pkg/CPRT-114HPRT24553/pdf/CPRT-114HPRT24553.pdf.

However, as the Panel learned during a year-long investigation, entities that wish to use the bodies of aborted babies for scientific or pecuniary purposes had found ways to manipulate and break laws intended to avoid the commodification of aborted infants. The Panel's report stated that a congressional hearing on Bioethics and Fetal Tissue "revealed substantial concern about the consent process for the donation of human fetal tissue used by abortion clinics and tissue procurement businesses (TPBs). Evidence revealed that self-interested staff, whose pay depends on the numbers of specimens donated, were assigned to obtain consent from patients."[35] This increased the likelihood that entities with a financial interest in obtaining fetal tissue might pressure women to abort and to permit the bodies of their aborted infants to be harvested and used in research.

Evidence was also presented demonstrating that abortion clinics violated United States medical privacy laws, and that TPBs lied when they claimed that their consent forms and methods complied with federal regulations regarding harvesting fetal tissue, which indicated "conduct focused on profit and not on patient welfare."[36]

For instance, U.S. law requires that anyone—in this case, a woman having an abortion—who is asked to donate tissue or organs for scientific or medical purposes be provided information so that she can make an informed decision (42 U.S.C. § 289g-1). However, the Panel found that some abortion providers deceptively told women that donated tissue from aborted babies had been used to treat and find cures for diseases when that was not true.[37] **Experts agreed that this lie was powerful and had the potential to induce women to donate tissue, and also agreed that accurate information is necessary for informed consent.**[38]

[35] Id. at 30.
[36] Id. at 30.
[37] Id. at 26.
[38] Id. at 535, 590.

Further, the sale of human body parts for profit is illegal in the United States, including organs and subparts of organs from aborted babies (42 U.S.C. § 289g-2). In the Panel's congressional hearing, *The Pricing of Fetal Tissue*, the Panel asked experienced federal prosecutors to compare the federal statute prohibiting profit from fetal tissue sales with materials obtained during the investigation.

The witnesses "agreed that based on the materials presented to them, they would open a case against a TPB."[39] The Panel had discovered evidence that researchers paid middlemen companies, who procured tissue from aborted babies, payments that exceeded costs incurred by the businesses by a factor of 300 to 700 percent. Also, abortion clinics were "compensated" for their assistance in procuring tissue and organs from aborted infants even when they did not appear to have any actual costs.[40] The Panel also uncovered evidence that abortion clinics might be modifying abortion procedures to increase the likelihood that an intact aborted cadaver might be delivered, in violation of U.S. law (42 U.S.C. § 289g-1).[41]

Another in-depth study of the conduct and practice of using human fetal tissue (HFT) from elective abortions for research summarized the dangers posed by this practice:

> "This in-depth analysis surrounding the conduct and practice of using HFT from elective abortions in research has uncovered the depth of injustice being done to the preborn in our society. Facts expose how the remains of aborted fetuses, obtainable only by the deliberate induction of their death, have been exploited and treated as commodities for over a century. And this practice continues today, perpetuated by a small proportion of scientists who want to keep this practice ongoing. Financial incentives also exist for various individuals and entities, and the market dynamics of supply and demand place vulnerable populations at risk for abuse, specifically women seeking abortions and their preborn children.

[39] Id. at 30-31.
[40] Id. at 27-28.
[41] Id. at 29.

> Many false and misleading claims continue to be used to justify these requests for HFT, despite an abundance of ethical alternatives that have proven success and have been used to achieve many scientific advancements, including adult stem cells, cord blood, hiPSCs, organoids, and humanized mice generated with ethical sources.
>
> …
>
> The complex bioethics and serious societal implications of continuing the use of HFT from abortions in research cannot be overstated. The use of all HFT from abortions—and all products derived from it—in research must come to an end, so that only the best and most ethical scientific advancements are made moving forward.
>
> …
>
> By adhering to the highest ethical standards, the best science and most honorable endeavors of scientific discovery will move forward. These practices will service all humanity, because they will value the sanctity of *every* human life and respect the consciences of *all* scientists, physicians, and patients, without exclusion or exploitation of any group within our society".[42]

By fully prohibiting the transfer and use of the broken bodies of aborted infants for research or transplantation, Article 25 of the LORIVE avoids the ethical and legal dilemmas that arise when scientific research using the bodies of aborted infants is permitted.

Ecuador has historically valued the lives of unborn children and their mothers. Ecuador's constitution and international agreements, including the American Convention on Human Rights,[43] reflect the country's understanding that life begins at conception. This Court can ensure that unborn children and their mothers continue to receive protection in the vast majority of circumstances.

VII. Request

[42] T. Sander Lee, M.B. Feeney, K.M. Schmainda, J.L. Sherley, D.A. Prentice, Human Fetal Tissue from Elective Abortions in Research and Medicine: Science, Ethics, and the Law, *Issues in Law and Medicine*, 35 (1), 59-60 (2020).

[43] American Convention on Human Rights "Pact of San Jose, Costa Rica" (B-32), Organization of American States, http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm.

For the reasons discussed above, we support the LORIVE, and respectfully encourage this Court to uphold it as the law in Ecuador. We also request that our arguments be heard at the public hearing for which we will appoint a representative.

VIII. Authorization

I authorize attorneys María de Lourdes Maldonado, with identity card No. 171001295-4 and professional registration No. 17-2001-381; Pablo Andrés Proaño, with identity card No. 172562602-0 and professional registration No 17-2020-841; Víctor Manuel Valle Villacís, with identity card No. 180537888-0 with professional registration No. 17-2022-1231, and Lina María Vera, with identity card No. 1720070521 and with professional registration No. 17-2022-1693 to file any action, injunction or request and to file any necessary appeal.

IX. Notifications

The corresponding notifications will be received by e-mails to info@lozierinstitute.org.

Signed,

/s/ Mary E. Harned

Mary E. Harned, J.D.

Associate Scholar

The Charlotte Lozier Institute