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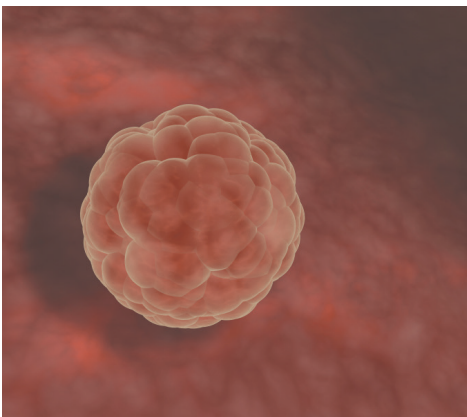
# The 'Personhood' Movement Versus Individual Rights

*Why It Matters that Rights Begin at Birth, Not Conception*

by Diana Hsieh, Ph.D. and Ari Armstrong

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## Prior Papers

The Coalition for Secular Government published earlier versions of this paper in 2008 and 2010.

The 2008 paper—“Amendment 48 Is Anti-Life: Why It Matters That a Fertilized Egg Is Not a Person”—is available at <http://www.seculargovernment.us/docs/a48.pdf>.

The 2010 paper—“The ‘Personhood’ Movement Is Anti-Life: Why It Matters that Rights Begin at Birth, Not Conception”—is available at <http://www.seculargovernment.us/docs/a62.pdf>.

## About the Coalition for Secular Government

The Coalition for Secular Government advocates government solely based on secular principles of individual rights. The protection of a person’s basic rights to life, liberty, property, and the pursuit of happiness—including freedom of religion and conscience—requires a strict separation of church and state.

Consequently, we oppose any laws or policies based on religious scripture or dogma, such as restrictions on abortion and government discrimination against gays. We oppose any government promotion of religion, such as “intelligent design” taught in government schools and tax-funded “faith-based initiatives.” We also oppose any special exemptions or privileges granted by government to religious groups, such as exemptions for churches from the tax law applicable to other non-profits.

The Coalition for Secular Government seeks to educate the public about the necessary secular foundation of a free society, particularly the principles of individual rights and separation of church and state.

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## Introduction

Colorado's 2014 ballot will ask voters to approve or reject Amendment 67, a proposal to grant full legal rights to "unborn human beings" in the state's constitution. Following in the footsteps of 2008's Amendment 48 and 2010's Amendment 62, Amendment 67 is the latest attempt by the "personhood" movement to outlaw abortion and other practices that could harm a zygote, embryo, or fetus. Amendment 67 does not differ from other "personhood" measures—such as the 2008 and 2010 Colorado measures—in its substance or legal implications. It differs only in its marketing: Amendment 67 is disguised as a measure for the "protection of pregnant mothers and unborn children" from the violence or negligence of criminals.<sup>1</sup>

Amendment 67 claims to be "in the interest of the protection of pregnant mothers and their unborn children from criminal offenses and negligent and wrongful acts."<sup>2</sup> That might suggest that the purpose of the measure is to legally protect pregnant women from harms inflicted upon them by criminals and other wrongdoers. But that is not the purpose of the measure.

If passed and fully implemented as its sponsors intend, Amendment 67 would bring about sweeping changes in the law by granting full legal rights to "unborn human beings." It would subject Colorado residents—particularly sexually active couples, couples seeking children, pregnant women and their partners, doctors, and medical researchers—to severe legal restrictions, police controls, protracted court battles, and even criminal punishments.

In particular, Amendment 67 would outlaw abortion, even in cases of rape, incest, terminally deformed fetuses, and danger to the woman's health. It would prohibit doctors from performing abortions, except perhaps in some cases to save the life of the woman, thereby endangering the lives and health of many women. In conjunction with existing statutes, Amendment 67 would subject women and their doctors to first-degree murder charges for willfully terminating a pregnancy, with the required punishment of life in prison or the death penalty.

The impact of Amendment 67 would extend far beyond abortion into the personal corners of every couple's reproductive life. It would outlaw many forms of birth control, likely including the IUD, birth-control pill, and morning-after pill. It would require criminal investigation of any miscarriages deemed suspicious. It would ban

potentially life-saving embryonic stem cell research and common fertility treatments.

Amendment 67 rests on the false premise that a fertilized egg (or zygote) is a full human person with an absolute right to biological life support from a woman throughout her pregnancy—regardless of her wishes and whatever the cost to her. The biological facts of pregnancy, in conjunction with an objective theory of rights, support a different view, namely that personhood and rights begin at birth. Colorado law should reflect those facts, not the Bible verses so often quoted (and creatively interpreted) by advocates of Amendment 67 and other "personhood" measures.

**Amendment 67 would subject sexually active couples, couples seeking children, pregnant women and their partners, doctors, and medical researchers to severe legal restrictions, police controls, protracted court battles, and even criminal punishments.**

## The "Personhood" Movement

The "personhood" movement is a recent offshoot of the broader "pro-life" movement. It is motivated, energetic, and idealistic. Its influence is growing rapidly, particularly among religious conservatives. To understand its past and potential future impact on American politics and law, we must review its origins and political activism.

### "Personhood" and the Abortion Debate

How does the "personhood" movement fit into the overall debate over abortion? Policy debates over abortion in America often assume just two camps: "pro-choice" on abortion and "pro-life," or opposed to abortion. In fact, people advocate a variety of views on abortion, depending on their answers to two basic questions: (1) when during pregnancy (if ever) should abortion be legal, and (2) for what reasons?

As we shall see, the advocates of “personhood” are among the most consistent opponents of abortion, explicitly claiming that a zygote is a fully human person with an inalienable right to life. Our view, in contrast, argues for the woman’s right to abortion as absolute throughout pregnancy. Between those two extremes, various “moderate” views can be found.

The fully pro-choice position (which we endorse) rejects any and all restrictions on abortion (and other medical practices that potentially impact an embryo or fetus) as an infringement of the rights of the woman. On this view, abortion should be legal until birth, solely at the discretion of the pregnant woman. Even when a woman deserves moral blame for acting capriciously, irresponsibly, or otherwise wrongly in deciding to terminate her pregnancy, she is within her rights to do as she pleases with her own body. Ultimately, that is because neither the embryo nor fetus has any rights. Rights begin at birth, when the fetus becomes an infant, biologically separate from the pregnant woman.

We regard this principled position as the only true “pro-choice” position, because only it fully recognizes and respects a woman’s right to govern her own body as she sees fit. We also regard it as the only truly “pro-life” position, because restrictions and bans on abortion (and on other reproduction-related practices) seriously harm and sometimes destroy the lives of actual people.

Many people adopt a moderate “pro-choice” position by accepting various restrictions on abortion. Some such people endorse the waiting periods or ultrasounds demanded by opponents of abortion. More commonly, they hold that early-term abortions should be legal, while later-term abortions should be restricted.

The Supreme Court drew such a distinction between early and late term abortions in its decision on *Roe v. Wade* in 1973. The Court overturned state prohibitions of abortion (as well as possible future federal prohibitions), ruling: “For the stage prior to approximately the end of the first trimester, the abortion decision and its effectuation must be left to the medical judgment of the pregnant woman’s attending physician.” However, the Court also ruled that states may restrict abortion for the “health of the mother” or “in promoting its interest in the potentiality of human life” in the later stages of pregnancy.<sup>3</sup>

In the past, the Catholic Church accepted a similar compromise position, albeit on the anti-abortion side. Today, the Vatican emphatically denies that the Church

ever morally accepted abortion at any stage, yet it grants that “in the Middle Ages...the opinion was generally held that the spiritual soul was not present until after the first few weeks...”<sup>4</sup> So, as researcher Leslie Reagan states, “Until the mid-nineteenth century, the Catholic Church implicitly accepted early abortions prior to ensoulment.”<sup>5</sup>

Today, the most common moderate “pro-life” or anti-abortion view is that abortions should be permitted in cases of rape and incest, as well as to save the life of the mother. In 2000, Republican presidential contenders George W. Bush and John McCain favored such exceptions for rape and incest.<sup>6</sup> In the 2012 election, Republican presidential candidate Mitt Romney similarly opposed abortion except “in cases of rape, incest or to save a mother’s life.”<sup>7</sup>

**Our view is that the woman’s right to abortion is absolute throughout pregnancy. We regard it as the only truly “pro-life” position, because restrictions and bans on abortion seriously harm and sometimes destroy the lives of actual people.**

The Catholic Church now advocates the strict “pro-life” view that abortion should be banned, whatever the circumstances. In the 1968 encyclical *Humanae Vitae*, Pope Paul VI condemned “the direct interruption of the generative process already begun and, above all, all direct abortion, even for therapeutic reasons.” The basic rationale was that abortion (and artificial birth control) is contrary to “the order of reality established by God” whereby “each and every marital act must of necessity retain its intrinsic relationship to the procreation of human life.”<sup>8</sup>

The advocates of “personhood” adopt a similar position: abortion must be banned whatever the circumstances. However, their view is based on the evangelical strain of Protestantism. As a result, their arguments that abortion is contrary to God’s will are largely based on (strained) interpretations of Bible passages, rather than abstract



theology.<sup>9</sup> In their superficially secular arguments, the advocates of “personhood” appeal to the deeply American notion of an inalienable right to life, claiming that right for the embryo and fetus. As a result of its ideological roots, the “personhood” movement does not reject birth control, as does the Catholic Church, provided that the birth control method acts solely by preventing fertilization of the egg by sperm.

The basic goal of the “personhood” movement is to “clearly define the pre-born baby as a person” so that embryos and fetuses “will have the same right to life as all Americans do.” It seeks to declare that a zygote is a “human being” and “person” from the moment of conception. Activists claim that “the science of fetology” can now prove that “a living, fully human, and unique individual exists at the moment of fertilization and continues to grow through various stages of development in a continuum until death.”<sup>10</sup>

Due to their unconditional opposition to abortion, “personhood” activists condemn moderate “pro-life” positions in the harshest possible terms. For example, American Right to Life, which proclaims itself as “the personhood wing of the pro-life movement,” condemned John McCain in 2008 as “pro-abortion,” saying he “rejects that an unborn child has the right to life” because, for instance, he thinks abortion should be permitted if the “father is a rapist” and because he approved funding for “the killing of the tiniest boys and girls in embryonic research.”<sup>11</sup>

The “personhood” movement arose as part of the religious right’s response to *Roe v. Wade*. In *Religion In American Politics*, Frank Lambert suggests that the Moral Majority of the 1970s largely reacted to “the radical politics of the sixties,” including the “proabortion’ forces” that prevailed in *Roe v. Wade*. (In fact, support for abortion rights obviously extends far beyond left-wing or “radical” politics.) The Moral Majority sought to organize “evangelical leaders [to] boldly engage the culture” and advance the “pro-life” cause as part of their agenda.<sup>12</sup> One result of those efforts is today’s “personhood” movement.

The “personhood” movement does not conceal its religious roots. Personhood USA, for example, declares that its “primary mission” is “to serve Jesus by being an Advocate for those who can not speak for themselves, the pre-born child.”<sup>13</sup> The organization describes itself as a “Christian ministry” that “desires to glorify Jesus Christ in a way that creates a culture of life so that all innocent human lives are protected by love and by law.”<sup>14</sup>

The political strategy of the “personhood” movement is just as uncompromising as its opposition to abortion.<sup>15</sup> Traditionally, opponents of abortion have used an “incremental” approach to banning abortion. Recognizing that a total ban on abortion is not politically feasible at this time, they seek to restrict access to abortion by myriad regulations, such as mandating waiting periods, ultrasounds, and notifications. By such means, they aim to make abortions increasingly difficult to obtain, thereby reducing the number of abortions as much as possible within the constraints imposed by *Roe v. Wade*. Referring to a state-level late-term abortion ban, 2012 Republican presidential candidate Michele Bachmann endorsed this incremental approach, saying, “Sometimes there are steps that you take to get to the point where you want to be.”<sup>16</sup>

**The “personhood” movement rejects traditional “pro-life” exceptions to abortion bans, such as in cases of rape and incest. It aims to grant all embryos the full rights of persons from the moment of fertilization.**

This incrementalist approach has been remarkably successful, likely due to the fact that each proposed regulation is debated in isolation, and so not seen as part of an integrated strategy to enact a total ban of abortion. The Guttmacher Institute reports:

An unprecedented wave of state-level abortion restrictions swept the country over the past three years. In 2013 alone, 22 states enacted 70 antiabortion measures, including previability abortion bans, unwarranted doctor and clinic regulations, limits on the provision of medication abortion and bans on insurance coverage of abortion. However, 2013 was not even the year with the greatest number of new state-level abortion restrictions, as 2011 saw 92 enacted; 43 abortion restrictions were enacted by states in 2012.<sup>17</sup>

As of September 2014, 26 states have waiting periods for women seeking abortion, and 11 of those states require the woman to undergo in-person counseling

before the waiting period begins. In addition, 27 states now mandate counseling beyond the requirements of informed consent and specify information that must be given to women—including questionable claims about the alleged ability of the fetus to feel pain (12 states), the supposed negative psychological consequences of abortion (9 states), and the alleged link between abortion and breast cancer (5 states).<sup>18</sup> Such incremental restrictions recently enabled anti-abortion activists to close down nearly two-thirds of all abortion clinics in Texas because “a federal appeals court ruled [on October 2, 2014] that the state could enforce its law requiring those facilities to be built to the same stringent standards as hospitals.”<sup>19</sup>

The leaders of the “personhood” movement regard this incrementalist approach as a dangerous compromise with the “pro-aborts” (i.e. supporters of abortion rights) because any law that permits abortion thereby “condones” it.<sup>20</sup> They seek to enact a total ban on abortion in America—via state and, ultimately, federal constitutional amendments that would grant full legal rights to zygotes from the moment of fertilization (or cloning)—without intervening steps. Hence, for example, Colorado Right To Life “commits to never compromise on God’s law... [and] understands there are no exceptions which would allow for the intentional killing of an innocent human life [i.e., an embryo or fetus].”<sup>21</sup>

Since its major efforts began in 2008, the “personhood” movement has emphasized the goal of reversing *Roe v. Wade* as a critical step in imposing abortion bans. A 2008 document from Colorado for Equal Rights states, “Why redefine the term person? In the famous *Roe v. Wade* Supreme Court case Justice Blackmun said basically that the whole argument for abortion rights falls apart if we know that the pre-born is a person.”<sup>22</sup> Similarly, *LifeSiteNews* paraphrases then-prominent Colorado anti-abortion activist Kristi Burton: “The time is ripe for a legal challenge to *Roe v. Wade*.”<sup>23</sup> In its 2008 candidate questionnaire, Colorado Right to Life stated, “Colorado RTL opposes every law that regulates the killing of unborn children because, regardless of the intention, such laws...will keep abortion legal if *Roe v. Wade* is merely overturned...”<sup>24</sup> In 2009, Gualberto Garcia Jones (a sponsor of Amendments 62 and 67) said, “All of our laws that we’re promoting are direct challenges to *Roe v. Wade*.”<sup>25</sup>

Of course, many advocates of “personhood” disagree with the all-or-nothing political strategy adopted by “personhood” groups. Instead, they embrace incremental restrictions on abortion as a means to the ultimate goal of granting full rights to embryos and fetuses. For example, although Senator Rand Paul “is open to all avenues of redress against the horror of abortion, including state legislation, federal legislation, and judicial appeals, he is committed, without qualification, to support a mandatory personhood human life amendment to the U.S. Constitution.”<sup>26</sup> Moreover, five states have mandated, as an incremental regulation designed to discourage abortion, that women seeking an abortion be told that personhood begins at conception.<sup>27</sup>

In addition to championing total abortion bans, “personhood” advocates explicitly seek to outlaw forms of birth control, fertility treatments, and medical research that may result in the destruction of an embryo. They say they want to protect every zygote from the moment of fertilization—and they mean it.

A closer look at the political campaigns waged by the “personhood” movement in Colorado and other states will better reveal its beliefs and strategies.

### Past Colorado Campaigns

The “personhood” movement launched its first major initiative in 2008 in Colorado with Amendment 48. The ballot question read:

Shall there be an amendment to the Colorado constitution defining the term “person” to include any human being from the moment of fertilization as “person” is used in those provisions of the Colorado constitution relating to inalienable rights, equality of justice, and due process of law?<sup>28</sup>

After a vigorous campaign, voters defeated the measure in November by a margin of 73 to 27 percent.<sup>29</sup>

Despite the resounding defeat of Amendment 48, “personhood” advocates vowed to return in Colorado, as well as to expand their cause to other states. In a 2009 interview with the *Los Angeles Times*, Keith Mason, a co-founder of Personhood USA, said, “We have big and small efforts going on in 30 states right now...Our goal is to activate the population.” Mason likened his cause to the abolitionist movement to end slavery.<sup>30</sup> The “personhood” movement sought to gain support over the long term, even when short-term electoral success was out of reach.

In 2010, Personhood Colorado gathered sufficient signatures to place Amendment 62 on the ballot. Like Amendment 48, this measure sought to add a section to Colorado’s Bill of Rights extending full legal rights from the moment of conception. The ballot question read:

Shall there be an amendment to the Colorado constitution applying the term “person,” as used in those provisions of the Colorado constitution relating to inalienable rights, equality of justice, and due process of law, to every human being from the beginning of the biological development of that human being?<sup>31</sup>

Although differing somewhat in their language, Amendments 48 and 62 were identical in substance. Both sought to grant the same legal rights to a newly fertilized zygote that a born infant enjoys. The measures would have authorized police, prosecutors, judges, and other officials to intervene to protect embryos and fetuses just as they now intervene to protect newborn infants. For example, as columnist Ed Quillen pointed out, “Every home miscarriage would have to be investigated by the coroner, for it’s his legal duty to look into all deaths of persons that do not occur under medical supervision.”<sup>32</sup> In that and every other way, Amendments 48 and 62 would have required an embryo or fetus to receive legal protection equivalent to that accorded to newborns.

In 2012, Personhood Colorado attempted to place another “personhood” measure on the ballot in Colorado.<sup>33</sup> If enough signatures had been submitted, voters would have been asked this question:

Shall there be an amendment to the Colorado constitution concerning the extension of rights to all human beings at any stage of development, and, in connection therewith, declaring that the protections for life provided for in the state constitution apply equally to all innocent persons; defining “person” as every member of the species homo sapiens at any stage of development; prohibiting the intentional killing of any innocent person; clarifying that the amendment affects only those methods of birth control and assisted reproduction that kill an innocent person and does not affect other methods of birth control or assisted reproduction, medical treatment for life-threatening physical conditions, or spontaneous miscarriages; and specifically prohibiting the killing of a person created through rape or incest committed by the father?<sup>34</sup>

“Personhood” activists failed to submit enough signatures in time for the measure to appear on the ballot, albeit by a small margin.<sup>35</sup> Notably, the basic intent of this proposed amendment is identical to that of Amendments 48 and 62. The only difference is that this version is far more clear and specific in its effects than the prior proposals.

Before we turn to 2014’s Amendment 67, let us review the campaigns for “personhood” in other states, as well as the embrace of “personhood” by Republican political candidates in recent years.

### Campaigns in Other States

Over the past few years, Personhood USA and like-minded groups have participated in political campaigns in various states, most notably in Mississippi in 2011. While Personhood USA fell short of “its goal for 2010,” namely “Personhood initiatives in all 50 states,” it has extended its campaign far beyond Colorado since its first efforts in 2008.<sup>36</sup>

**Despite widespread support from Republicans and Democrats, the voters of Mississippi rejected a “personhood” measure by 42% to 58% in November 2011.**

In November 2011, the people of Mississippi voted on Initiative 26, also known as the “Life Begins at the Moment of Fertilization Amendment.” The measure asked:

Should the term ‘person’ be defined to include every human being from the moment of fertilization, cloning, or the equivalent thereof?<sup>37</sup>

The measure was supported by major politicians, particularly Republicans, including Mississippi Governor Haley Barbour. According to reports, the state’s Democrats were “cautious of publicly opposing or even questioning the amendment for fear of alienating Mississippi’s pro-life majority.” Some Democrats even supported it:

The personhood measure actually has a fair amount of support from Mississippi Democrats. Jim Hood, the Democratic Attorney General, endorsed the amendment in a statement and said he would defend

it if it were challenged. A spokesperson for Hattiesburg Mayor Johnny DuPree, the Democratic candidate for governor, told HuffPost that that he supports the amendment as well, despite his “concerns about some of the ramifications.”<sup>38</sup>

Ultimately, Initiative 26 was defeated, albeit by a much slimmer margin than the two “personhood” measures in Colorado: 42% voted in its favor and 58% voted against it. That defeat—in a state where opposition to abortion rights is common even among Democrats—demonstrated that “personhood” measures are unlikely to pass in any state at present.

Meanwhile, a number of attempts to place “personhood” measures on the ballot have been made in other states—including in Missouri, Alaska, Nevada, Florida, Oklahoma, and Montana.<sup>39</sup> These attempts have failed, mostly due to lack of signatures and/or legal challenges.

One perhaps unexpected reason for those failures is that “personhood” measures are often actively opposed by more traditional anti-abortion groups as ineffective and even dangerous to the anti-abortion cause. Such tensions arose within the anti-abortion movement in Missouri in 2010, for example. Working with Personhood USA, Gregory Thompson and others attempted to place a “personhood” measure on the Missouri ballot.<sup>40</sup> Phyllis Schlafly’s conservative Eagle Forum opposed this effort, saying:

The “personhood” initiative lost by a landslide of 73% to 27% in Colorado in 2008, and its unpopular coattails hurt good pro-life candidates there. This poorly designed initiative would not prevent a single abortion even [if it] became law, and its vague language would enable more mischief by judges.<sup>41</sup>

Other anti-abortion groups, such as Missouri Right to Life, opposed the measure for similar reasons.<sup>42</sup> Unsurprisingly, insufficient signatures were collected to place the “personhood” measure on the ballot.<sup>43</sup>

However, on July 14, 2010, the governor allowed activation of a new law (Senate Bill 793) strengthening Missouri’s mandatory waiting period and notification laws pertaining to abortion. Abortion providers “will have to supply a state-produced brochure proclaiming: ‘The life of each human being begins at conception,’” the Associated Press reported.<sup>44</sup> While Missouri Right to Life praised the passage of the bill, “personhood” activist Thompson condemned Missouri Right to Life for embracing

“politicians that are ‘pro-death, with exceptions.’”<sup>45</sup> So in this case, the “personhood” movement helped erode abortion rights in Missouri, albeit in ways it does not endorse and without achieving its ultimate goals.

In addition, the “personhood” movement has gained sufficient prominence to affect the elections of candidates for office in various states. For example, in a non-binding July 2010 vote, Georgia’s Republican voters approved “personhood” language by wide margins, endorsing the position that the “right to life is vested in each human being from their earliest biological beginning until natural death.” In only one county did Democratic voters express an opinion on the language, and they approved it as well.<sup>46</sup>

While this vote carried no legal weight, its influence was felt in the race for Georgia’s governor. As the *Journal-Constitution* reported, the August 10 Republican primary for governor was a “major test of influence for Georgia’s most aggressive anti-abortion organization,” Georgia Right to Life, which endorsed Nathan Deal over Karen Handel.<sup>47</sup> The organization’s political action director, Melanie Crozier, said, “All six of the Republican front-runners for Governor have endorsed a Personhood Amendment to the Georgia Constitution.” She continued, “Karen Handel, while not endorsed by GRTL because of her opposition to pro-life positions, still maintains her support of a Personhood Amendment.”<sup>48</sup> Deal beat Handel in a close race and then went on to win the general election.<sup>49</sup> Here, Georgia’s “personhood” movement achieved greater political influence.

In addition to these grassroots efforts, NARAL Pro-Choice America reports that “in 2013, nine state legislatures introduced 14 ‘personhood’ measures and in 2012, eight states introduced 11 measures.”<sup>50</sup>

Likely, even more “personhood” measures would have appeared on state ballots in recent elections if Republicans enjoyed more power in Washington. Following the 2010 election, Steven Ertelt, the founder and editor of *LifeNews*, a Christian anti-abortion news site, wrote:

In order to defeat Obama and ultimately stop abortions, personhood amendments must be put aside in 2012 so the pro-life community can focus on the number one goal: installing a pro-life president who will put the nation in a position to legally protect unborn children... We need a united pro-life movement in Colorado and nationwide focusing all of its energy and attention on the 2012 elections—only then can we truly protect unborn children.”<sup>51</sup>



While that appeal has not changed the ambitions of Personhood USA, the group might have found themselves with fewer eager allies in Colorado and other states due to such tactical concerns.

Whatever the effect of those practical concerns, the ideology of “personhood” continues to spread among religious conservatives. Shortly before the publication of this paper, for example, New Hampshire’s Republican Party added “personhood” language to its platform, vowing to “support the pre-born child’s fundamental right to life and personhood under the Fourteenth Amendment, and implement all Constitutional and legal protections.”<sup>52</sup>

### “Personhood” in Colorado Elections

In the 2008 and 2010 elections, a primary political strategy of Personhood Colorado was to garner support among Republicans. In 2008, numerous high-profile Republican office holders and candidates in Colorado endorsed “personhood.” In 2010, even more did so. After significant electoral losses to Democrats, with support for “personhood” measures widely cited as a major reason, Colorado Republicans tempered their support for “personhood” measures in 2014.

In 2008 and 2010, Colorado Right to Life issued similarly worded candidate surveys. The survey asked (among other things) whether candidates support “the God-given, inalienable Right to Life for the unborn”; “agree that abortion is always wrong, even when the baby’s father is a criminal (i.e. a rapist)”; endorse the “personhood” measure; and oppose “embryonic stem cell research.”<sup>53</sup>

In 2008, those who agreed completely with Colorado Right to Life’s agenda included Congressman Doug Lamborn (elected to the Fifth Congressional district in 2006); Congressman Mike Coffman (elected to the Sixth Congressional district in 2008); Jeff Crank (who lost the primary to Lamborn); and (except for a question about incremental legislation) Kevin Lundberg (appointed to the state senate in 2009 after serving as state representative).<sup>54</sup>

In 2010, Colorado Right to Life proclaimed even greater Republican support for its agenda:

In 2008, most major candidates were unwilling to take a stand on Personhood. It’s possible that Bob Schaffer, the Republican nominee for U.S. Senate, lost because he did not endorse Personhood, and many voters did not consider him sufficiently pro-life. By contrast, in 2010, every credible Republican candidate for top statewide offices has said they support Personhood,

and most of the credible Republican candidates for U.S. Senate and Congress have also expressed support for Personhood.<sup>55</sup>

Conservative activist Ed Hanks noted that “three of the seven candidates for districts in Congress [were] on record as supporting Personhood—Cory Gardner, Doug Lamborn and Mike Coffman.”<sup>56</sup> Colorado Right to Life noted that Gardner, a candidate in the Fourth Congressional district, joined Lamborn and Coffman in expressing perfect agreement with the organization’s agenda.<sup>57</sup> All three “personhood” candidates won their races in the general election.<sup>58</sup>

In the Republican primaries for governor and U.S. Senate in 2010, all four candidates endorsed “personhood,” and the staunchest anti-abortion candidates won those primaries. In the governor’s race, Dan Maes beat scandal-plagued Scott McInnis, who had previously served on the advisory board of Republicans for Choice and said he changed his mind on the issue.<sup>59</sup> (However, even though Colorado Right to Life considered Maes to be “100% pro-life,” he expressed support for current laws on birth control and said that he regarded Amendment 62 as “simply making a statement.”<sup>60</sup> Maes also selected a running mate who favored legal abortions in cases of rape and incest.<sup>61</sup>) In the Senate race, Ken Buck, who said, “I don’t believe in the exceptions [to abortion bans] of rape or incest,” beat Jane Norton, who favored exceptions for “rape, incest, and life of the mother” (earning her criticism from Colorado Right to Life).<sup>62</sup> Neither Maes nor Buck won in the general election, however, and those losses were widely attributed to their views on abortion.<sup>63</sup>

Since the 2008 election, Colorado Republicans have been strongly and widely criticized for their endorsement of “personhood” measures, including by opponents of abortion. In 2014, three prominent Colorado Republicans—Cory Gardner, Bob Beauprez, and Mike Coffman—openly disavowed their prior support for “personhood” measures. No doubt these politicians were motivated by the fact that previous “personhood” measures in Colorado lost by wide margins and likely prevented Republicans from winning any state-wide races.

In March 2014, as part of his current campaign for U.S. Senate against incumbent Mark Udall, Representative Cory Gardner spoke to the *Denver Post* about “personhood”:

This was a bad idea driven by good intentions. I was not right. I can’t support personhood now. I can’t support personhood going forward. To do it again would be

a mistake. ... The fact that it restricts contraception, it was not the right position. I've learned to listen. I don't get everything right the first time. There are far too many politicians out there who take the wrong position and stick with it and never admit that they should do something different.<sup>64</sup>

A few months later, Cory Gardner published a column in the *Denver Post* calling for women to be allowed to purchase the birth control pill over-the-counter.<sup>65</sup> Despite these positive steps, Gardner has declined to withdraw his support for federal legislation declaring that life begins at conception.<sup>66</sup> When a reporter asked Gardner whether that is “a piece of legislation that says abortion ought to be illegal,” Gardner (inexplicably) responded, “No.”<sup>67</sup> Moreover, Gardner's record suggests that he seeks to ban abortion across the board, including for victims of rape and incest.<sup>68</sup> In essence, then, Gardner still endorses “personhood” in principle, at least as concerns abortion.

Bob Beauprez, the Republican candidate for Colorado governor in 2014, appeared to endorse “personhood” in 2006.<sup>69</sup> In an interview with Colorado Public Radio that year, he agreed that he would “sign a bill banning all abortions in Colorado” provided that “it protected the life of the mother.” The host, Ryan Warner, then asked:

Let me give you what is admittedly an extreme hypothetical. A sixteen-year-old girl is raped. She and her parents want to get an abortion for her. They would pay for it, it wouldn't be state dollars. You would support a law preventing her from getting an abortion under those circumstances?

Beauprez replied:

Yes, and I'll tell you very simply why. ... I don't think it's the child's fault. And I think we either protect life—all life, especially the most innocent of life—or we don't. The situations of rape or incest, and pregnancies resulting from, are relatively few. And I think, unfortunately, what we have done, sometimes, is use rather what we think of as extreme exceptions, to justify a *carte blanche* abortion policy that has resulted in—well in excess, as I understand it, of a million abortions a year in our nation. Tragically, I think, in some of our ethnic communities we're seeing very, very high percentages of babies, children, pregnancies, end in abortion. And I think it's time that we have an out in the open discussion about what that means.<sup>70</sup>

But in September 2014, he backpedaled, saying, “Nobody's taking that [the right to get an abortion] away—that's a false argument. That's the law of the land. Some like me are personally pro-life, but I'm not going to deny what the law provides you.”<sup>71</sup> Of course, the question is whether he would change abortion law if given the opportunity.

Representative Mike Coffman, currently running for re-election to Congress, also withdrew his support for “personhood” measures. Although reported in the news shortly after Cory Gardner altered his position, his change of mind happened earlier.<sup>72</sup> Coffman endorsed Amendments 48 and 62 in 2008 and 2010, respectively, and he opposed access to abortion for victims of rape and incest.<sup>73</sup> Then, in the 2012 election, he declined to endorse the principle of “personhood.” In June 2013, he stated “I strongly support the exceptions for rape, incest, and protecting the life of the mother” in a press release about his vote for legislation limiting late-term abortions.<sup>74</sup> According to the “personhood” group Colorado Right to Life, Coffman is “no longer considered pro-life.”<sup>75</sup>

**After losing every state-wide election since the first “personhood” measure in 2008, many of Colorado's Republican candidates for office withdrawn from their support for Amendment 67.**

Despite widespread support for “personhood” measures among Colorado Republicans, many seem confused or conflicted about the implications of “personhood.” At the 2010 Republican state convention, 79 percent supported a resolution holding that “life begins at conception and is deserving of legal protection from conception until natural death.” However, 74 percent also endorsed the statement that “pregnancy, abortion, and birth control are personal private matters not subject to government regulation or interference.”<sup>76</sup>

Moreover, Republican candidates are now very aware that endorsing “personhood” is a politically dangerous move that Democratic candidates and activists can easily

exploit to their benefit.<sup>77</sup> In fact, a July 2014 poll by NBC News/Marist College revealed that 70 percent of Colorado residents would be less likely to support a candidate who supported restrictions on contraception, and 67 percent would be less likely to support a candidate who supported restrictions on abortion.<sup>78</sup> Endorsing “personhood” is clearly a losing strategy in Colorado, and Republicans know that now. Or, as James Bopp, general counsel for the National Right to Life Coalition and longtime critic of “personhood” measures, unhappily observed, “Colorado is one of few places where a significant number of people have gotten behind (personhood), and look at the result: The state has gone Democratic and rabidly pro-abortion.”<sup>79</sup>

Notably, some Colorado Republicans actively oppose “personhood.” For example, former Republican Senator Hank Brown joined the Republican Majority for Choice in opposing 2008’s Amendment 48.<sup>80</sup>

#### “Personhood” in National Elections

In the run-up to the 2012 election, the ideology of “personhood” reached national prominence. Every notable Republican candidate for president except Mitt Romney, Gary Johnson, and John Huntsman eagerly embraced the principle of “personhood” for zygotes. During the primaries, Ron Paul, Michele Bachmann, Rick Santorum, Newt Gingrich, and Rick Perry signed the “Personhood Republican Presidential Candidate Pledge,” which read:

I \_\_\_\_\_ proclaim that every human being is created in the image and likeness of God, and is endowed by our Creator with the unalienable right to life.

I stand with President Ronald Reagan in supporting “the unalienable personhood of every American, from the moment of conception until natural death,” and with the Republican Party platform in affirming that I “support a human life amendment to the Constitution, and endorse legislation to make clear that the 14th Amendment protections apply to unborn children.”

I believe that in order to properly protect the right to life of the vulnerable among us, every human being at every stage of development must be recognized as a person possessing the right to life in federal and state laws without exception and without compromise. I recognize that in cases where a mother’s life is at risk, every effort should be made to save the baby’s life

as well; leaving the death of an innocent child as an unintended tragedy rather than an intentional killing.

I oppose assisted suicide, euthanasia, embryonic stem cell research, and procedures that intentionally destroy developing human beings.

I pledge to the American people that I will defend all innocent human life. Abortion and the intentional killing of an innocent human being are always wrong and should be prohibited.

If elected President, I will work to advance state and federal laws and amendments that recognize the unalienable right to life of all human beings as persons at every stage of development, and to the best of my knowledge, I will only appoint federal judges and relevant officials who will uphold and enforce state and federal laws recognizing that all human beings at every stage of development are persons with the unalienable right to life.<sup>81</sup>

Moreover, those same candidates—Ron Paul, Michele Bachmann, Rick Santorum, Newt Gingrich, and Rick Perry—participated in a “Presidential Pro-Life Forum” sponsored by Personhood USA in December 2011. During that event, the candidates explained how they would enact sweeping restrictions on and ultimately ban abortion if elected president.<sup>82</sup>

Mitt Romney, who ultimately won the Republican nomination in 2012, advocated abortion rights when running for governor of Massachusetts in 2002. However, during his 2008 and 2012 bids for president, he described his views as “unapologetically pro-life,” advocating abortion bans except in cases of rape, incest, and to save the life of the woman.<sup>83</sup> As far-reaching as Romney’s 2012 position was—he would outlaw almost all abortions—he kept his distance from the “personhood” movement in the 2012 primaries.

However, Romney has expressed sympathy for “personhood” measures, apparently ignoring their intended legal implications. In the context of discussing Mississippi’s 2011 “personhood” measure, Mike Huckabee asked Romney, “Would you have supported the constitutional amendment that would have established the definition of life at conception?” Romney replied, “Absolutely.”<sup>84</sup>

The “personhood” wing of the anti-abortion movement will surely feature prominently in 2016’s Republican presidential primaries. Here, consider the example set

by conservative darling Rand Paul, son of Ron Paul. In early March 2013, U.S. Senator Rand Paul rose to prominence and acclaim, thanks to his 13-hour filibuster on the deployment of drones inside the United States.<sup>85</sup> Shortly thereafter, Paul revealed his political priorities by spending that hard-earned political capital to introduce the “Life at Conception Act,” which sought to “implement equal protection for the right to life of each born and preborn human person... at all stages of life, including the moment of fertilization, cloning, or other moment at which an individual member of the human species comes into being.”<sup>86</sup> On his website, Paul describes his views as follows:

I am 100% pro-life. I believe life begins at conception and that abortion takes the life of an innocent human being. It is the duty of our government to protect this life as a right guaranteed under the Constitution. For this reason, I introduced S. 583, the Life at Conception Act on March 14, 2013. This bill would extend the Constitutional protection of life to the unborn from the time of conception.<sup>87</sup>

More recently, Paul said, “I think, and I often say in my speeches, that I don’t think a civilization can long endure that doesn’t respect the rights of the unborn.”<sup>88</sup> Paul seems poised to run for president in 2016.<sup>89</sup>

Representative Paul Ryan, Mitt Romney’s running mate in the 2012 and potential candidate in 2016, co-sponsored the “Sanctity of Human Life Act” in early 2013.<sup>90</sup> The act declares that:

(A) the right to life guaranteed by the Constitution is vested in each human being, and is the paramount and most fundamental right of a person; and

(B) the life of each human being begins with fertilization, cloning, or its functional equivalent, irrespective of sex, health, function or disability, defect, stage of biological development, or condition of dependency, at which time every human being shall have all the legal and constitutional attributes and privileges of personhood...<sup>91</sup>

The measure was introduced by Representative Paul Broun, who said:

As a physician, I know that human life begins with fertilization, and I remain committed to ending abortion in all stages of pregnancy. I will continue to fight this atrocity on behalf of the unborn, and I hope my colleagues will support me in doing so.<sup>92</sup>

Jeb Bush, another likely contender in 2016, supports legal abortion “only when pregnancy resulted from incest, rape, or when the life of the woman is endangered.”<sup>93</sup> However, as governor of Florida in 2003, he attempted to appoint “a legal guardian to represent the interests of an unborn [fetus] being carried by a woman with severe learning disabilities who was raped.” Civil rights activists feared that the health and interests of the woman, “a 22-year-old living in government-run care, who cannot speak and has no family,” would be compromised by the appointment.<sup>94</sup> His motion was denied by the courts on technical grounds.<sup>95</sup>

Due to such views, the question of the legal status of embryos and fetuses will surely be a hotly debated topic during the 2016 election, with at least some Republican candidates endorsing “personhood” measures.

**The “personhood” movement rose to national prominence in the 2012 primaries when most major Republican candidates endorsed “personhood” for zygotes. Likely, the same will happen in 2016.**

Now we can turn to Amendment 67, which will appear on Colorado’s ballot in November 2014.

#### **Colorado’s Amendment 67**

Like previous “personhood” efforts, Amendment 67 would grant full legal rights to zygotes, embryos, and fetuses. However, that intent is not clear from the wording of the measure, which appears to pertain only to violent or negligent criminal assaults against pregnant women. The ballot will read:

Shall there be an amendment to the Colorado constitution protecting pregnant women and unborn children by defining “person” and “child” in the Colorado criminal code and the Colorado wrongful death act to include unborn human beings?<sup>96</sup>



The language of the amendment itself, titled “Protection of Pregnant Mothers and Unborn Children,” states:

In the interest of the protection of pregnant mothers and their unborn children from criminal offenses and negligent and wrongful acts, the words “person” and “child” in the Colorado Criminal Code and the Colorado Wrongful Death Act must include unborn human beings.<sup>97</sup>

At first glance, this amendment seems designed to protect pregnant women and their children-to-be from criminal assaults and other harms that might be inflicted upon them. That’s exactly how the “personhood” movement is trying to market this measure—unlike previous “personhood” measures.

Personhood USA informally calls Amendment 67 the “Brady Amendment,” in memory of Heather Surovik’s unborn son. (Surovik, along with Personhood USA’s Gualberto Garcia Jones, are listed as the two official filers of the ballot language.) Personhood USA explains:

On July 5th 2012, Heather Surovik was eight months pregnant with her son Brady when a drunk driver slammed into her car, harming both Heather and her mother and killing baby Brady. Because Colorado law doesn’t recognize Brady as a person, there was no prosecution for his tragic death.<sup>98</sup>

Unfortunately, Colorado did not have adequate statutes on the books at the time of that horrific crash to address the death of Surovik’s fetus. (The driver in question, who had four prior DUIs, did face multiple other charges.<sup>99</sup>) However, this omission could be—and was—addressed by Colorado’s government without defining embryos and fetuses as “persons.”

In June 2013, Colorado governor John Hickenlooper signed into law House Bill 13-1154, the “Crimes against Pregnant Women Act.”<sup>100</sup> The introductory language of that measure explains its purpose and limitations:

In 2003, the general assembly enacted House Bill 03-1138, which created the crime of unlawful termination of pregnancy, in response to the brutal murder of a woman who was sixteen to seventeen weeks pregnant...

The 2003 law exclusively addresses conduct that is intentional and does not apply to reckless or careless conduct that results in the termination of a pregnancy... Since the implementation of the 2003

law, there have been a number of cases throughout Colorado in which pregnant women were injured or killed by reckless or careless conduct, terminating their pregnancies as a result;... [yet] under current Colorado law, the perpetrators of those incidents could not be charged with a crime specifically as a consequence of the termination of their victims’ pregnancies...

Justice requires that Colorado law hold a person who recklessly or carelessly injures a pregnant woman, and who causes the termination of her pregnancy as a consequence, directly and fully accountable;... [however,] this purpose can be accomplished by recognizing the pregnant woman as the victim of criminal conduct, whether intentional, reckless, or careless, and without altering established Colorado law to confer legal personhood upon an embryo or fetus...

Hence, House Bill 13-1154 protects pregnant women and their unborn children from harm without changing the legal status of embryos or fetuses. It does so sensibly, by defining the “unlawful termination of pregnancy” to be “the termination of a pregnancy by any means other than birth or a medical procedure, instrument, agent, or drug, for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained...” Depending on the circumstances, the unlawful termination of pregnancy may be deemed as severe as a Class 3 felony, or a Class 2 felony if the woman dies. A Class 3 felony calls for a prison sentence up to twelve years, while a Class 2 felony calls for a sentence up to twenty-four years.<sup>101</sup> Charges for unlawful termination of a pregnancy may be added to other charges, including those for assaulting or criminally harming the pregnant woman.

In addition, House Bill 13-1154 defines “aggravated vehicular unlawful termination of pregnancy” as driving under the influence of drugs or alcohol, when such “conduct is the proximate cause of the unlawful termination of the pregnancy.” Such an offense is deemed a Class 4 felony, which carries a two to six year prison sentence and carries a fine from \$2,000 to \$500,000. Charges for this crime may come on top of charges for related crimes, including those for drunk driving.

Personhood USA opposed the passage of House Bill 13-1154—not on the grounds that its penalties were inadequate or other practical grounds—but rather because the “bill specifically denies rights” to embryos and

fetuses.<sup>102</sup> Unfortunately, then, the tragic death of Brady is being used as political cover for the sweeping agenda of the “personhood” movement.

### North Dakota’s Measure 1

Colorado is not the only state with a “personhood” measure on the ballot in 2014. In North Dakota, voters in the upcoming election will be asked to approve or reject a constitutional amendment stating, “The inalienable right to life of every human being at any stage of development must be recognized and protected.”<sup>103</sup>

ND Choose Life claims that the measure is required to protect “common-sense pro-life laws” threatened by recent court rulings, such as “ensuring that women are given full disclosure of information prior to an abortion, providing that abortion can only be performed by licensed physicians with hospital admitting privileges to protect women in case of emergencies, making sure parents are notified if their daughter is seeking an abortion, and prohibiting the gruesome partial-birth abortion procedure.”<sup>104</sup>

Despite the plain wording of the amendment, ND Choose Life claims that the measure would not ban abortion. In answer to the question, “Q. Does the amendment ban abortion?” the FAQ says:

No. The amendment leaves decisions about abortion to our elected officials. North Dakota has a number of strong, common-sense pro-life laws designed to protect women and their unborn children. The Human Life Amendment provides constitutional protections to uphold laws like ensuring a woman’s right to disclosure, notifying parents before a daughter receives an abortion and protecting children from the horror of “partial birth” abortion which entails the indefensible, grotesque killing of a child in the process of being born. Neither North Dakota law nor the proposed Human Life Amendment contain an absolute ban on abortion. The decision to enact additional pro-life laws will remain with the Legislature.<sup>105</sup>

Somehow, then, the proposed amendment would prevent those “common-sense pro-life laws” from being overturned by the courts without exerting any corresponding effect on laws permitting abortion. In fact, if the measure is passed, ND Choose Life and allied groups will surely demand sweeping restrictions on abortion, if not a total ban, based on the rights granted to “every human being at any stage of development” by the measure.

Notably, Margaret Sitte, a state senator who sponsored the legislative proposal to place Measure 1 on the ballot, was less coy about its intended effects, saying, “This amendment is intended to present a direct challenge to *Roe v. Wade*.”<sup>106</sup>

## The Destructive Effects of “Personhood”

Given that *Roe v. Wade* remains in force, the impact that any state-based “personhood” measure may have is not clear. However, what is clear is that the ultimate agenda of the “personhood” movement is to overturn *Roe v. Wade* and totally ban abortion and other practices that may harm a zygote, embryo, or fetus.

As we shall see, the battle to fully enforce a “personhood” measure would generate a legal quagmire. To the degree that it was enforced, a “personhood” measure would generate horrific consequences—including harsh criminal penalties—in the areas of abortion, birth control, fertility treatments, and medical research.

### A Legal Quagmire

A state constitutional provision, such as Colorado’s Amendment 67, would be implemented and enforced by legislative action, state and federal court rulings, and policies of police and prosecutors. Thus, while Personhood USA and its sympathizers have stated their views of the meaning of “personhood,” their proposed legal measures might be interpreted and enforced differently than they would prefer.

The ultimate legal impact of Amendment 67 (and related measures) cannot be perfectly predicted in advance. What is certain is that “personhood” measures would provoke many years of legal battles in legislatures and courts, ensnaring women, as well as their partners and doctors, in expensive, time-consuming, and potentially liberty-infringing civil or criminal proceedings. Furthermore, the more consistently Amendment 67 were interpreted and enforced, the more ghastly its effects would be.

So long as the *Roe v. Wade* decision remains in force, state governments cannot impose abortion bans. Therefore, the passage of Amendment 67 in Colorado would not immediately ban abortions due to overriding federal policy. However, as discussed in the prior section, overturning *Roe v. Wade* and outlawing abortion is precisely what the advocates of “personhood” aim to do. That is why religious conservatives express such interest in the abortion-related views of nominated Supreme Court Justices.

Even absent a reversal of *Roe v. Wade*, a “personhood” measure could have far-reaching consequences. As Alaska’s Attorney General Daniel Sullivan wrote in a review of the proposed “personhood” measure in that state, courts could apply the measure “on a case by case basis” in an unpredictable number of ways:

An initiative that sought to prohibit all abortions would be clearly unconstitutional because there is controlling law, *Roe v. Wade*, that makes such a measure clearly unconstitutional. But there is no controlling law that makes it clearly unconstitutional to extend legal person status to the point of conception. ...[I]n order to avoid a finding of unconstitutionality, the courts could interpret the personhood measure narrowly with respect to its impact on state laws regulating abortion. ...With respect to other contexts, courts would have to decide on a case by case basis the extent to which extending legal person status prenatally should expand the scope of an existing law.<sup>107</sup>

If “personhood” becomes law, whether via the passage of Colorado’s Amendment 67 or some other measure, government officials might interpret its language as narrowly as possible in an effort to minimize its impact. Unwilling to inflict harm on innocent people, many legislators, judges, prosecutors, and police might be tempted to wink at the “personhood” language and largely ignore it. Unfortunately, such a practice would spare people the worst impacts of the measure only by undermining the rule of law. Instead, they might rewrite Colorado’s criminal code to exclude “the unborn” as potential victims of murder, manslaughter, and other crimes. However, anti-abortion lawyers and activists would surely work doggedly to force the government to fully implement and enforce the measure. They would also seek to place committed “personhood” advocates into positions of power in the government, whether by election or appointment.

Notably, the vague language of Amendment 67, particularly in comparison to the language of 2008’s Amendment 48 and 2010’s Amendment 62, might provide legal grounds to interpret that measure more narrowly than “personhood” advocates desire. Amendment 48 specified “the moment of fertilization” as the commencement of personhood and rights.<sup>108</sup> Amendment 62 spoke of “the beginning of the biological development of [the] human being.”<sup>109</sup> Amendment 67, in contrast, simply refers to “unborn human beings,” which is far more vague. Pro-

choice (and moderately pro-life) activists, lawyers, and judges could argue that the phrase “unborn human being” applies at some point after fertilization—perhaps only after implantation in the uterus, after a heartbeat develops, after quickening, in the third trimester, or after viability outside the womb. Alternatively, the description might apply only in cases when the woman plans to bring the pregnancy to term.

**The ultimate legal impact of Amendment 67 (and related measures) cannot be perfectly predicted in advance. What is certain is that “personhood” measures would provoke many years of legal battles in legislatures and courts.**

Of course, the sponsors and advocates of Amendment 67 expect the measure to grant all the rights of personhood to the zygote at the moment of fertilization (or cloning). That is clear from what sponsor Gualberto Garcia Jones said about Amendment 67 in a July 24, 2014 email:

Some of our supporters have asked whether the Brady Amendment is a personhood amendment. **The answer is yes!** A personhood measure is any proposal that constitutionally seeks to recognize (without exceptions) that unborn babies are persons deserving of our love and protection by law. ...

One need look no further than the section of the Colorado law that deals with homicide to see how central the concept of personhood is: the homicide section is appropriately titled “Offenses Against the Person.” The Brady Amendment recognizes that all human beings, not just those who are born, are persons and amends the criminal code to that effect! ...

Whether it is a drunk driver who avoids facing any charges for the death of a baby that is just days from birth, or a hospital that avoids malpractice liability for the death of unborn babies in its care, or an abortionist

who kills children in the womb for a living, the fact is that all three rely on the same reasoning: the baby in the womb is not a person and therefore his or her life has no value in the eyes of the law.<sup>110</sup>

Recall that Jones has also been active in previous “personhood” efforts and, at least until recently, was listed as on the board of Personhood USA.<sup>111</sup> By implication, women who seek abortions would face criminal charges under Amendment 67. Unsurprisingly, Jones has stated elsewhere that under “personhood” measures, “there are times when a woman deserves to be convicted” for harming or killing her embryo (as a reporter for the *Colorado Independent* paraphrases him).<sup>112</sup>

Of course, neither legislators nor courts are bound by the sponsors’ interpretation of Amendment 67’s vague language, and that lack of clarity would likely generate significant legal battles should the measure pass.

Ultimately, the impact of any “personhood” measure—in which zygotes, embryos, and fetuses are granted the full rights of personhood—would depend on its interpretation and enforcement by various branches and levels of government. Due to its breadth, such a measure would have sweeping implications for a state’s legal code, such that its enforcement could only be haphazard. Many people would be dragged through civil and criminal trials in test cases for seemingly ordinary actions, destroying their lives and savings in the process.

Despite those uncertainties, the advocates of “personhood” have stated their views of the proposed law fairly clearly, and they would fight to implement the law accordingly. So over the next few sections, we shall examine those myriad ways in which “personhood” measures would create a police-state nightmare for countless women, their partners, and their doctors—if passed and fully enforced.

### Harsh Legal Penalties

If passed and fully enforced, a “personhood” measure like Amendment 67 would affect the meaning of the criminal law, mandating harsh legal penalties for harm done to zygotes, embryos, and fetuses. Intentionally harming a zygote would be a crime of the same magnitude as harming a born infant, and intentionally killing a zygote would be murder.

Colorado Statute 18-3-102 states:

A person commits the crime of murder in the first degree if...[a]fter deliberation and with the intent to cause the death of a person other than himself, he

causes the death of that person or of another person...  
Murder in the first degree is a class 1 felony.

Thus, if a zygote is legally a person from the moment of fertilization, then any intentional act of preventing it from implanting (such as by using emergency birth-control) or aborting an embryo or fetus would be first-degree murder.

By Colorado law, the punishment for that crime would be life in prison or death. Statute 18-1.4-102 states:

Upon conviction of guilt of a defendant of a class 1 felony, the trial court shall conduct a separate sentencing hearing to determine whether the defendant should be sentenced to death or life imprisonment...”

**If passed and fully enforced,  
Amendment 67 would subject  
women and their doctors to  
prosecution for first-degree murder,  
then punishment via life in prison  
or the death penalty, for the crime of  
terminating a pregnancy.**

While few supporters of Amendment 67 would likely endorse such draconian punishments, its intended meaning as articulated by its sponsors leaves no room for doubt: any woman who prevents a zygote from implanting or who terminates her pregnancy would be guilty of murder under Colorado law. In fact, Colorado religious leader Bob Enyart has explicitly called for the death penalty for abortion (among other alleged offenses).<sup>113</sup> Similarly, Kevin Williamson, a correspondent for *National Review*, recently suggested in a Twitter conversation that women who have abortions should be hanged.<sup>114</sup> While American Right to Life does not directly advocate the death penalty for abortion, it explicitly calls abortion murder and “advocates the death penalty for everyone convicted of a capital crime.” The organization even regards opposition to the death penalty as creating “the disrespect for human life that leads to abortion” because, they claim, God commands the death penalty.<sup>115</sup>



Ultimately, then, “personhood” laws would not merely outlaw abortion. Such laws would require that women who obtain abortions, for whatever reason, be prosecuted and even executed for murder. The same would apply to any doctor who might provide abortion services. Anyone assisting the doctor, including nurses and other health care workers, might be prosecuted as an accessory to murder. Even just seeking an abortion would be regarded as attempted murder under the law.

In addition, coroners, police officers, and prosecutors might be obliged, pressured, or inspired to investigate or prosecute any miscarriage or stillbirth deemed suspicious. A woman suspected of inducing a miscarriage or stillbirth (or attempting to do so) could be subject to criminal prosecution, as could others suspected of helping her in the act. Such investigations are already happening in anti-abortion states, in fact. Consider this case from Mississippi, for instance:

Rennie Gibbs was a teenager in 2006 when her baby was born dead with the umbilical cord wrapped around her neck. While no actual cocaine was found in the baby’s blood, an autopsy turned up “traces of a cocaine byproduct.” Mississippi state prosecutors indicted Gibbs for “depraved-heart murder,” a second-degree murder charge used for crimes that demonstrate a “callous disregard for human life” and result in death. Gibbs was facing a possible life sentence.

Thankfully, “a Mississippi judge ruled on [April 3, 2014] that the state [had] no legitimate murder case,” but the toll on Ms. Gibbs and her family must have been severe.<sup>116</sup> Far worse, women are prosecuted, convicted, and imprisoned for murder in cases of miscarriage in countries like El Salvador as a result of their strict anti-abortion laws.<sup>117</sup>

Similarly, any actions of a pregnant woman that might endanger the welfare of her embryo or fetus could be considered child abuse, which doctors might be required to report. As Indra Lusero and Lynn Paltrow said of Colorado’s Amendment 48, “If the amendment passes, Colorado’s juvenile courts will have jurisdiction whenever doctors or family members disagree with a pregnant woman’s medical decisions.”<sup>118</sup>

### **Bans of Elective Abortions**

If fully enforced, Amendment 67 and comparable measures would ban all abortions, except perhaps in cases of extreme risk to the mother’s life. As a result, the measure

would cause permanent injury or death to some at-risk women, as we shall see. Even in less dire circumstances, the measure would do serious harm to women (and their partners and families) by forcing them to bring any pregnancy to term, regardless of the woman’s judgment about her best course in life.

The potential impact of “personhood” measures depends partly on how many women seek abortions. The Guttmacher Institute reports:

In 2011, there were 6 million pregnancies to the 63 million women of reproductive age (15-44) in the United States. [67%] of these pregnancies resulted in live births and 18% in abortions; the remaining 15% ended in miscarriage. In Colorado, 94,200 of the 1,038,102 women of reproductive age became pregnant in 2011. 69% of these pregnancies resulted in live births and 16% in induced abortions.<sup>119</sup>

In other words, according to the proponents of “personhood” measures, about one million American women and fifteen thousand Colorado women committed murder via abortion in 2011 alone. According to the logic and stated intent of “personhood” measures, those women should have been arrested, tried, and punished with life in prison or the death penalty.

Most abortions take place early in a pregnancy. Viability, the age at which a fetus possibly can survive outside the womb with advanced medical assistance, generally is considered to be around 24 weeks at the earliest. In 2010, 66 percent of abortions were performed within the eighth week, 92 percent were performed by the thirteenth week, and only 1.2 percent of abortions were performed beyond the 21st week.<sup>120</sup> Abortion usually takes place in the first trimester, long before the fetus is viable. By granting “unborn human beings” the legal status of persons, Amendment 67 would outlaw abortions even in the earliest stages of pregnancy.

Why do women get abortions? A 2005 article in *Perspectives on Sexual and Reproductive Health* published relevant polling results. 13 percent of women cited “Possible problems affecting the health of the fetus.” 12 percent cited “Physical problems with my health.” One percent got an abortion because of rape, and fewer than half of a percent got an abortion because of incest. The most popular answer given (where women could list multiple reasons) was, “Having a baby would dramatically change my life,” at 74 percent. Many women also offered financial reasons (73 percent), lack of a partner or problems with a

romantic relationship (48 percent), or desire not to have another child (38 percent).<sup>121</sup>

It is clear that most abortions are elective. It is equally clear that, if fully enforced, Amendment 67 and other “personhood” measures would totally ban such abortions.

Most Americans claim to support restrictions or bans on elective abortions. In a May 2014 poll, Gallup found that, while 21 percent of Americans said that abortion should be “illegal in all circumstances,” 37 percent said it should be “legal in only a few circumstances.” (28 percent said it should be “legal under any circumstance,” and 11 percent said that it should be “legal under most circumstances.”) Older results from Gallup suggest that a majority of Americans favor legal abortion only for particular reasons, including: “when the woman’s life is endangered,” “when the woman’s physical health is endangered,” “when the woman’s mental health is endangered,” “when the child would be born with a life-threatening illness,” or “when the pregnancy was caused by rape or incest.”<sup>122</sup>

However, contrary to such popular opinions, any ban on elective abortions, whether via “personhood” laws or other anti-abortion laws, would have far-reaching and disastrous consequences. (A later section of this paper will address the morality of elective abortions.)

Under a ban of elective abortions, a woman would be legally compelled to add a child to her family, even if she is not physically, emotionally, or financially prepared to raise the child, and regardless of the costs to her, her partner, or any existing children. True, a woman could instead opt to put the child up for adoption, and that is a good option for some. However, that requires months of pregnancy, delivery of the child, physical recovery, the time and stress of finding a suitable adoptive family, the emotional trauma of giving up a child, lifelong angst about the child’s fate, and possible worry about a future reunion. Given these high costs, it is no surprise that many women seek elective abortion, even when illegal.

If a single state (such as Colorado) banned abortions, women who wanted an abortion would travel (or move) to other states to obtain one, if able to do so. However, the aim of “personhood” advocates is to impose universal abortion bans. What then?

Only the naïve imagine that an abortion ban would put an end to elective abortion. Many women would continue to seek abortions through illegal means, either by using legal drugs and herbs to illegally induce an abortion, inflicting

physical trauma on themselves to induce an abortion, buying illegal drugs to induce abortion, or turning to underground practitioners of abortion.

Rachel Benson Gold writes for the Guttmacher Institute:

Estimates of the number of illegal abortions in the 1950s and 1960s ranged from 200,000 to 1.2 million per year. ...One stark indication of the prevalence of illegal abortion was the death toll. In 1930, abortion was listed as the official cause of death for almost 2,700 women—nearly one-fifth (18%) of maternal deaths recorded in that year. ...By 1965, the number of deaths due to illegal abortion had fallen to just under 200, but illegal abortion still accounted for 17% of all deaths attributed to pregnancy and childbirth that year. And these are just the number that were officially reported; the actual number was likely much higher.<sup>123</sup>

With the imposition of harsh legal penalties for abortion, women would be less likely to seek professional medical assistance in cases of a “back-alley” abortion gone wrong, leading to more deaths and permanent injury.

The enforcement implications for elective abortion bans are alarming. Under today’s laws, police officers routinely pose as prostitutes or drug buyers to “bust” johns and drug dealers. If abortion were outlawed, police officers could also pose as abortion providers in an attempt to ensnare women seeking abortions, then arrest and prosecute them. Or police officers might pose as pregnant women seeking abortions in order to arrest and prosecute doctors providing illegal abortions.

Moreover, women seeking an abortion could, under an enforced “personhood” measure, be arrested under attempted murder or related statutes. If a parent threatened to murder his or her born child, arresting the parent would result in physically separating the parent from the child, thereby keeping the child safe. However, a pregnant woman arrested for attempted murder could not be physically separated from the embryo or fetus. Instead, any woman seeking to terminate her pregnancy would have to be physically prevented from further attempting to harm her embryo or fetus by some form of incarceration until that fetus could be forcibly delivered under state supervision. Thus, the ultimate alternative to legal abortion is police officers strapping an uncooperative woman to a prison bed for weeks or months and forcing her to give birth—then imprisoning her for attempted murder.

### **Bans of Abortions to Protect a Woman's Health**

Thankfully, modern medicine makes both pregnancy and abortion relatively safe. The Centers for Disease Control reports, “The risk of death from complications of pregnancy has decreased approximately 99% during the twentieth century, from approximately 850 maternal deaths per 100,000 live births in 1900 to 7.5 in 1982.” That trend has been reversed in part in recent years, however: “the number of reported pregnancy-related deaths in the United States steadily increased from 7.2 deaths per 100,000 live births in 1987 to a high of 17.8 deaths per 100,000 live births in 2009.”<sup>124</sup> Most women who die from pregnancy die during live birth.<sup>125</sup> By way of comparison, the Guttmacher Institute notes, “Fewer than 0.5% of women obtaining abortions experience a complication, and the risk of death associated with abortion is about one-tenth that associated with childbirth.”<sup>126</sup>

The advocates of “personhood” laws claim that they would allow doctors to intervene to save the life of the mother. Personhood USA, for example, argues by analogy that a woman can terminate a pregnancy to save her own life, as a form of self-defense:

Consider [an] example [similar] to life-threatening pregnancy. Two persons, Barbara and Susan, are swimming in a lake. Barbara starts to drown and in her panic, she understandably clings to Susan. Would it be ok for Susan, in order to save her own life, to push Barbara away? Once again, the point is worth repeating. Barbara is a person with a right to life, yet Susan can push her away to save her own life. Likewise, though the unborn are persons with a right to life, a pregnant mother will always be able to get life-saving treatment, even when that treatment involves the tragic death and removal of her unborn baby.<sup>127</sup>

The position of Colorado Right to Life is more ambiguous:

...there are no exceptions which would allow for the intentional killing of an innocent human life. We recognize that in some circumstances, the mother's life and/or the baby's life will be in danger. Under those circumstances, those responsible must make every legitimate effort to save the life of both mother and child.<sup>128</sup>

So in cases of life-threatening pregnancy, doctors could be forced to balance the life of the woman with the life of the embryo or fetus under “personhood” laws. The result would be permanent injury or death for some women who

would otherwise choose the relative safety of an abortion. That is true even when the pregnancy is not viable, as in cases of ectopic pregnancy.

Ectopic pregnancies, “the leading cause of pregnancy-related death during the first trimester in the United States,” occur when a fertilized egg develops outside of the uterus. An ectopic pregnancy occurs in about two percent of all pregnancies, and in 1992 about half of all ectopic pregnancies (58,200 out of 108,800) resulted in hospitalization.<sup>129</sup> An article in *American Family Physician* explains: “A ruptured ectopic pregnancy is a true medical emergency. It is the leading cause of maternal mortality in the first trimester and accounts for 10 to 15 percent of all maternal deaths.”<sup>130</sup> The drug methotrexate is often used to terminate an ectopic pregnancy if diagnosed early, as that “allows the body to absorb the pregnancy tissue and may save the fallopian tube, depending on how far the pregnancy has developed.”<sup>131</sup> Women concerned about their future fertility fare best with early but conservative treatment—meaning that methotrexate is administered or “the ectopic [is] removed from the tube with conservation of the tube at surgery.”<sup>132</sup>

**The “personhood” movement's opposition to abortion, even when the mother's life is threatened by an ectopic pregnancy, would risk the lives, health, and fertility of thousands of women each year.**

Based on the passive approach to ectopic pregnancy recommended by most advocates of “personhood” measures, the lives, health, and fertility of American women with ectopic pregnancies likely would be at risk under an enforced “personhood” measure.

The Association of Pro-life Physicians claims that medical intervention may not be justified in cases of ectopic

pregnancies. An article written by director Dr. Patrick Johnston says:

What is rarely realized is that there are several cases in the medical literature where abdominal ectopic pregnancies have survived! There are no cases of ectopic pregnancies in a fallopian tube surviving, but it is well documented in the medical literature that a tubal ectopic pregnancy may unattach and reattach in the uterus. There have also been successful embryo transplants where the embryo was surgically removed from the fallopian tube and implanted into the uterus. Regardless, several large studies have confirmed that expectant management may allow spontaneous regression of the tubal ectopic pregnancy the vast majority of the time.

If expectant management fails and the ectopic pregnancy does not spontaneously resolve, and surgery becomes necessary to save the life of the mother, it is likely at this point that the baby has already overgrown his or her blood supply and succumbed. Nevertheless, with the mother's life imminently threatened by the pregnancy, a premature delivery may be necessary to save the life of the mother, but the physician should do everything possible to save the baby as well.

A chemical abortion with a medicine called methotrexate is often recommended by physicians to mothers with early tubal ectopic pregnancies to decrease the chances of hemorrhage or a surgical alternative being necessary later. I have found this to be an unnecessary risk to human life.

Notably, the "risk to human life" in question does not refer to the life of the mother but rather to the (minuscule) possibility of a second, undiagnosed uterine pregnancy. Ultimately, the group claims, "there are no occasions in which an abortion is justified. None. Not even for the life of the mother."<sup>133</sup>

Priests for Life maintains that only some kinds of medical interventions are justified in cases of ectopic pregnancies. The organization features an exchange with a nurse, who states, "I am an oncology nurse and was asked to give methotrexate for an ectopic pregnancy...I believe the pregnancy was tubal. Needless to say I refused because I was unsure of the morality of it." Priests for Life replies:

The relevant moral question is whether the method or action is in fact a killing of the child. If so, that is a direct abortion, which is never permissible for any

reason. ... Sometimes ectopic pregnancies are handled this way, killing the child but leaving the tube intact. Such an action is morally wrong.

However, if what is done is that the damaged portion of the tube is removed because of the threat it poses to the mother, that is not a direct abortion, even if the child dies. What is done is the same thing that would be done if the tube were damaged from some other cause. The mother is not saved by the death of the child but by the removal of the tube. Because the death of the child in this case is a side effect which is not intended, and because the saving of the mother's life is not brought about by the death of the child, such a removal of the damaged portion of the tube is morally permissible.<sup>134</sup>

Personhood Iowa echoes these limitations in claiming that, in cases of ectopic pregnancy, "the damaged portion of the tube containing the baby may be removed where it is clearly necessary to save the mother's life." It continues:

One should never attempt to codify in law the importance of one innocent human life over and above another. Physicians must make their best effort to save both patients, giving equal care to mother and child. They should never be given a license to intentionally kill either of them...

Personhood Iowa goes on to explain that "since the preborn child is a person, there can be no exceptions for abortion."<sup>135</sup>

Bill Fortenberry of The Personhood Initiative makes even stronger claims against treatment for ectopic pregnancy in his article on "Ectopic Personhood":

... ectopic pregnancies are not necessarily fatal for either the mother or the child. The mother's survival is almost certain, and the survival of the child is at least possible if not probable... The personhood of the unborn child does not conflict with the need to protect the life of the mother for the simple reason that abortion is never necessary for that protection. There are other solutions available. More than one obstetrician has recommended that women with ectopic pregnancies should be placed under the constant vigil of a well equipped hospital until their children have developed enough to be delivered alive rather than sacrificed unnecessarily. Ectopic pregnancies can be survived, and we can prohibit all abortions without any exceptions.<sup>136</sup>



In essence, Fortenberry wants to prohibit the safest and most effective treatments for ectopic pregnancy based on a few hundred cases of successful ectopic pregnancies reported in the last century. He proposes “managing” cases of ectopic pregnancy by allowing “the children [to] continue to grow until they eventually rupture their mothers’ fallopian tubes,” then “implant[ing them] on some other surface in the abdominal cavity” with sufficient blood supply, and finally “deliver[ing them] alive via c-section.”<sup>137</sup>

In a debate on “personhood” and ectopic pregnancy hosted by The Personhood Initiative, a question was raised about “the outcome of these managed ectopic pregnancies,” with one participant citing a study supposedly showing that “the risk of dying from an abdominal pregnancy is 8 times greater than the risk of dying from a tubal pregnancy, and 90 times greater than with a normal intrauterine pregnancy.” Bill Fortenberry responded:

Yes, there is a risk of death in ectopic pregnancy. I’m not saying that these pregnancies are joyful and pain free. I’m simply pointing out that they are far from unquestionably fatal for either the mother or the child. Consequently, the intentional killing of the child cannot be justified. Since survival is possible for both the mother and the child, the doctor must strive to the best of his ability to save both patients.<sup>138</sup>

Of all the advocates of “personhood,” the American Association of Pro-Life Obstetricians and Gynecologists takes the position most conducive to protecting the lives, health, and fertility of women suffering from ectopic pregnancy. Admitting that ectopic pregnancy “cannot result in the survival of a baby and entails a very substantial risk of maternal death or disability,” it endorses “treatment ... to end the pregnancy surgically or medically,” recognizing that “early treatment may [preserve] fertility potential.” They conclude:

...the intent for the pro-life physician is not to kill the unborn child, but to preserve the life of the mother in a situation where the life of the child cannot be saved by current medical technology.<sup>139</sup>

Three common themes emerge from these various understandings of how “personhood” applies to life-threatening pregnancies. First, abortion should always be banned, without exception, even when the pregnancy risks the woman’s life. Second, doctors must recognize the embryo’s right to life by regarding the embryo as just as much their patient as the pregnant woman. Doctors

should attempt to save the lives of both, if possible. Third, medical intervention that harms or kills the embryo should only be allowed when a necessary and lamentable side-effect of some (often last-resort) treatment required to save the life of the woman.

Under Amendment 67 and similar measures, how would prosecutors treat doctors who prescribe medical intervention as a “first resort” in cases of ectopic pregnancy to better protect the woman’s life, health, and fertility? The question is impossible to answer in advance—although advocates of “personhood” would surely push for laws and rulings consistent with the views outlined above. Moreover, any uncertainty in the application of the relevant law could impel many doctors to refuse to treat women suffering from ectopic pregnancy. For example, following a total ban on abortion in Nicaragua, many doctors refused to perform even emergency abortions for ectopic pregnancy, and at least one woman with an ectopic pregnancy died because doctors refused to treat her, apparently out of fear of prosecution.<sup>140</sup>

Ultimately, “personhood” laws could require doctors to navigate these confusing philosophical debates while attempting to provide medical care in an emergency. Doctors might be forced by law to use less effective or more dangerous methods of treatment for ectopic pregnancy. Even doctors who attempted to comply with the law could be subject to criminal investigation and prosecution if they used a method deemed inappropriate by a police officer or prosecutor. Once again, the result could be that many doctors refuse to treat women with ectopic pregnancy.

Ectopic pregnancy is not the only serious risk to a woman’s life and health in pregnancy: “a variety of medical conditions in pregnant women have the potential to affect health and cause complications that may be life threatening.” For example, about one in a thousand women get cancer during pregnancy.<sup>141</sup> To delay treatment until birth would be dangerous if not deadly to the pregnant woman, while to treat the woman while pregnant would be dangerous if not deadly to the embryo or fetus.

Due to its total ban on abortion, Nicaragua denied cancer treatment to a ten-weeks pregnant woman with cancer suspected to have spread to her brain, lungs, and breasts in 2010.<sup>142</sup> The anti-abortion news service *LifeSiteNews* decried calls to permit her to terminate the pregnancy as unnecessary.<sup>143</sup> Ultimately, the woman was allowed chemotherapy, and as a result, the fetus was stillborn five months later.<sup>144</sup> In this case, as in many others, the life of

the woman could only be saved at the expense of that of the embryo or fetus. Yet under “personhood” laws, the embryo or fetus has the same right to life as the woman, so any priority given to her life must be regarded as criminally suspect.

Moreover, a “personhood” measure likely would forbid a doctor from terminating a pregnancy to save the woman from permanent disability—mental and/or physical—due to her pregnancy. Colorado Right to Life, for example, recognizes the legitimacy of terminating a pregnancy only “when the mother’s life is seriously threatened.”<sup>145</sup> Likewise, in a memorandum for the religiously motivated Thomas More Law Center, Robert Muise refers only to terminating a pregnancy to save a woman’s life.<sup>146</sup> In other words, a doctor may be legally required to save the life of the embryo or fetus (whether viable outside the womb or not) even when the woman will suffer serious and permanent injury as a result.

If a “personhood” measure passed, legislation and court cases would determine whether a doctor could terminate a pregnancy to save not only the life but also the health of a woman. However, even if the law were clear, the broader problem is that doctors can rarely predict with certainty when a patient’s life or long-term health is at risk. A doctor who terminated a pregnancy to save the health or life of a woman might be second-guessed by a prosecutor. The advice and decisions of doctors would be distorted by fear of possible prosecution, rather than based solely on their best judgment of the woman’s condition and prospects. As an inevitable result, some women would receive sub-standard medical care and suffer permanent injury or death as a result.

Personhood Colorado denies that “personhood” measures would “threaten the death penalty on doctors who do legitimate invasive surgery that could unintentionally harm a child in the womb.” About 2010’s Amendment 62, the organization said:

In Colorado, the death penalty is only available for first degree murder with aggravating factors. First degree murder requires deliberation and intent. There are no legitimate medical procedures that are intended to kill the child in the womb, and in those extremely rare situations where a woman needs treatment that might unintentionally result in the death of the child, the doctor would not have acted with intent to kill or even harm the child, but with intent to cure the mother. ...

The crucial issue in criminal law is always intent. Law School 101 teaches you that the basic elements of any crime are a guilty mind (*mens rea*) and a guilty act (*actus reus*). A doctor who performs a procedure to cut out a damaged section of a fallopian tube where a human embryo is lodged is not intending to kill the human embryo, instead she is attempting to cure a physical ailment, and unintentionally causing the death of a human embryo.<sup>147</sup>

In fact, doctors could not guarantee that prosecutors, judges, and juries would regard medical treatments that endangered or killed an embryo or fetus in this light, even if necessary to save the life or health of the pregnant woman. True, a jury might apply the “reasonable person” standard in order to rule that any medical intervention to protect the life or health of the pregnant woman constitutes an appropriate “standard of care.” Alternately, the legislature might pass statutes authorizing doctors to perform medical interventions to save a pregnant woman’s life, even if they harm an embryo or fetus in the process. However, they might not do that, particularly given that “personhood” advocates reject “life of the mother” exceptions to abortion bans. (Pro-Life Wisconsin, for example, bluntly states that “legislative proposals that expressly deny the personhood of certain preborn children through exceptions for rape, incest, or *the so-called life of the mother* must be opposed.”<sup>148</sup>)

**It is not clear that a doctor could intervene to save the health of a woman by terminating her pregnancy. A doctor may be legally required to save the life of the embryo or fetus even if the woman will suffer permanent physical injury as a result.**

Moreover, Personhood Colorado ignores the fact that first degree murder is not the only relevant statute. Colorado statute 18-3-105 states, “Any person who causes the death of another person by conduct amounting

to criminal negligence commits criminally negligent homicide which is a class 5 felony.” Statute 18-1-501(3) clarifies: “A person acts with criminal negligence when, through a gross deviation from the standard of care that a reasonable person would exercise, he fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.” Felony negligence does not require deliberation or intent—and under “personhood” laws, doctors could be prosecuted for negligently harming or killing an embryo or fetus, even if the treatment was medically necessary and performed with the woman’s consent.

In any case, police, prosecutors, judges, and legislators would be constitutionally bound to protect the legal rights of embryos and fetuses under a “personhood” measure, whatever the cost to pregnant women and their doctors. Ultimately, even if a criminally prosecuted woman or doctor won in court, just the financial costs and emotional distress of a trial would take a heavy toll.

In summary, under an enforced “personhood” law, a woman might not be able to obtain an abortion even if she reasonably feared for her health or life. Depending on legislative actions and prosecutorial zeal, doctors might not be willing to terminate a pregnancy except in cases of extreme risk to a woman’s life. In cases of lesser risk to a woman’s health or uncertain risk, doctors likely would be wary about terminating a pregnancy, fearing prosecution. Women might even need to obtain bureaucratic or judicial approval to obtain an abortion, even in an emergency, resulting in potentially dangerous delays. The result would be that women would face increased danger of permanent physical injury or death during pregnancy.

#### **Bans of Abortions for Rape, Incest, and Fetal Deformity**

By establishing rights from conception, Amendment 67 and other “personhood” measures would outlaw abortion for pregnancies resulting from rape and incest. Whether the embryo was created in an act of consensual love or brutal force would not impact its legal rights. Without the emergency contraception or abortion to protect themselves from pregnancy, brutalized girls and women might be forced to endure an inescapable reminder of their attack for nine months thereafter, if not longer. Recall that Colorado Right to Life asked candidates whether they “agree that abortion is always wrong, even when the baby’s father is a criminal (a rapist),” and numerous respondents answered yes. While a small fraction of abortions terminate pregnancy resulting from

rape or incest, in those few cases this legal implication of “personhood” measures become very important.

Personhood Iowa explains its opposition to exceptions in any abortion ban for rape and incest as follows:

Rape and incest are both criminal acts, and in our system of justice we punish the criminal. We do not punish the victim, nor do we punish the criminal’s children. We are told that if a pregnancy results from an act of rape or incest the compassionate response is to offer the traumatized woman an abortion. No woman should be “forced to carry that monster’s child,” we are told. The trauma of sexual assault is very real. But why compound such severe trauma with the additional trauma of abortion?

Abortion takes the life of a living human being. The circumstances of conception may have been criminal, but the life of the newly-created human being is just as valuable as any other person’s. We do not put criminal’s innocent children to death in our culture; it simply isn’t done. It should not be done in this situation, either.<sup>149</sup>

**The “personhood” movement  
does not merely seek out outlaw  
elective abortions. It aims to outlaw  
abortions in case of rape, incest, and  
fetal deformity as well.**

American Right to Life claims that allowing abortion in cases of incest “emboldens a criminal to rape his young relative,” “helps him escape being caught,” “tempts him to repeat his crime,” and “is not compassionate because it kills a baby and increases the woman’s suffering.”<sup>150</sup>

“Personhood” measures such as Amendment 67 also would outlaw the abortion of severely deformed fetuses without any reasonable hope of a life outside the womb. Although women’s bodies usually naturally abort in such cases, they do not always do so. A 2008 article in *Boulder*

*Weekly* quotes a doctor from Georgia who discusses the devastating effects on parents if abortion is forbidden in such cases:

There were countless couples who got up and told their story [in a legislative hearing in Georgia] about how they had to have an abortion because of a child that was an[en]cephalic [missing most of the brain] or deformed in some terrible way... [T]o think that you have to carry that child, go through the pain of the delivery process and then watch it die...<sup>151</sup>

Under Amendment 67 and other “personhood” measures, aborting a deformed fetus would be just as much murder as killing a deformed infant. Personhood Iowa explicitly draws that connection, asking: “Abortions in these cases [of fetal deformity] raise frightening prospects, for if it is all right to kill a disabled person in the womb, could it not someday be permissible to kill a disabled infant? A disabled adult?” (In fact, born people, whether disabled or not, have all the rights of persons.) Personhood Iowa continues:

Every human life is a gift from God. Caring for and loving a child with disabilities allows us to serve someone other than ourselves. It fosters patience, understanding and gratitude for the gifts we have been given. And it allows us to experience the joy of Christ whose life and death was total self-giving, unconditional love for each one of us.

Of course, many Americans would never desire to live a life of patient suffering—or inflict that on their child—in obedience to Christian theology, and for “personhood” laws to force that upon them is wrong.

Ultimately, under “personhood” laws, painful family decisions would become political spectacles for anti-abortion activists under the false banner of “protecting life,” just as happened in the Terri Schiavo case. Leslie Hanks, who helped submit 2010’s Amendment 62 to the Secretary of State, attempted to “peacefully but physically intervene” in the Schiavo case, in which Schiavo persisted in a vegetative state and her husband wished to have her feeding tube removed. No doubt Hanks and others would be equally prepared to intervene in the private decisions of Colorado families.<sup>152</sup>

### **Bans of Common Birth Control Methods**

While the most obvious and severe effect of Amendment 67 and comparable measures would be a total ban on abortion, they would also profoundly affect the day-to-

day sex lives of couples by restricting birth control. If a newly fertilized zygote is a person with full legal rights, then any action that prevents a zygote from implanting in the uterus must be considered murder. Thus, if fully implemented, “personhood” measures could ban any form of birth control that prevents implantation of a zygote, including intrauterine devices (IUDs) and perhaps also the birth-control pill (the most popular type of birth control) and morning-after pill.

Typical of “personhood” groups, Personhood Colorado endorses laws permitting only birth control “that prevents conception,” understood as “the union of a sperm and an egg.” Forms of birth control that instead result in the destruction of a zygote should be called “abortifacients,” not contraception, the organization holds. “Barrier methods of contraception that prevent the union of the sperm and the egg will not be outlawed,” the group states, and presumably the same logic holds for sterilization, but other forms of birth control would be banned.<sup>153</sup>

How would IUDs and perhaps birth-control pills and morning-after pills violate “personhood” laws?

The IUD Mirena® also causes “alteration of the endometrium” and may “thin the lining of your uterus,” which may inhibit implantation. Moreover, the device may threaten pregnancies that do occur. The device is relatively effective at preventing unwanted pregnancy: “The reported 12-month pregnancy rates were less than or equal to 0.2 per 100 women (0.2%) and the cumulative 5-year pregnancy rate was approximately 0.7 per 100 women (0.7%).” (The device is intended for use for up to five years.) However, if the device fails the consequences can be serious. “Up to half of pregnancies that occur with Mirena in place are ectopic.” Moreover: “Severe infection, miscarriage, premature delivery, and even death can occur with pregnancies that continue with an intrauterine device (IUD). Because of this, your health care provider may try to remove Mirena, even though removing it may cause a miscarriage.”<sup>154</sup>

These facts have two main implications vis-à-vis “personhood” laws. Most obviously, because the IUD may prevent a zygote from implanting and may threaten a pregnancy if it does occur, the device should be banned, according to the logic of such laws. (A device that threatened the lives of up to half of all born infants, as the IUD does for zygotes by increasing the risk of ectopic pregnancy, would be banned as a public health menace.) That’s why, for example, Colorado Right to Life refers to IUDs as “mechanical ... abortifacient ‘birth control.’”<sup>155</sup>



Moreover, many women already use the IUD, and likely they would be obliged to remove it by any “personhood” law. However, some might fail to do so immediately. If a pregnancy occurred in such a case, the woman’s doctor might face criminal prosecution for unduly threatening the life of the embryo. Because a doctor might damage an embryo either by removing the IUD or leaving it in place, some doctors might simply choose not to treat patients with IUDs and save themselves the associated legal risks.

The effect of “personhood” laws on the birth-control pill and morning-after pill is more complicated.

Mostly, the birth control pill acts to prevent fertilization, yet doctors have long thought that it might prevent a zygote from implanting in the uterus too. The manufacturers of the popular birth control pills Ortho Tri-Cyclen® and Trinessa® state in their prescription information:

Combination oral contraceptives act by suppression of gonadotropins [hormones]. Although the primary mechanism of this action is inhibition of ovulation, other alterations include changes in the cervical mucus (which increase the difficulty of sperm entry into the uterus) and the endometrium [the lining of the uterus] (which reduce the likelihood of implantation).<sup>156</sup>

Similarly, the morning-after pill (also known as emergency contraception) also may prevent implantation of the zygote. The FDA discusses a common brand:

Plan B works like other birth control pills to prevent pregnancy. Plan B acts primarily by stopping the release of an egg from the ovary (ovulation). It may prevent the union of sperm and egg (fertilization). If fertilization does occur, Plan B may prevent a fertilized egg from attaching to the womb (implantation).<sup>157</sup>

These claims have undergone some scrutiny lately, however, perhaps due to the attacks on the birth-control pill and morning-after pill from “personhood” activists. A pair of 2012 *New York Times* articles reviewed compelling evidence that low-dose hormonal birth-control pills, specifically Plan B and Ella, probably act solely by preventing fertilization of an egg, not by preventing implantation of a (fertilized) zygote. By contrast, notes the *Times*, RU-486, does destroy embryos by using much higher doses of comparable hormones. (The *Times* also notes that “the copper intrauterine device...can work to prevent pregnancy after an egg has been fertilized.”)<sup>158</sup>

Despite the scientific uncertainty, “personhood” laws might still result in a ban on the birth-control pill, depending on how legislatures and courts interpreted the scientific data on the matter. The *New York Times*’s articles even offer some reason to think the pill would be banned under “personhood” laws. Consider these statements from the reports: “Catholic bishops and evangelical leaders say that if there is any chance that a method may result in the destruction of a fertilized egg they will oppose it”; “Some abortion opponents said that while emergency contraceptives’ primary function may be delaying ovulation, they doubted that scientists could exclude the possibility of implantation effects”; and “Several scientists acknowledged that absolute proof may be elusive.”<sup>159</sup>

**Many religious opponents of abortion welcome the prospect that Amendment 67 and similar measures could ban the IUD, birth-control pill, and morning-after pill, even if that results in many more unwanted pregnancies every year.**

In an article for the *Atlantic*, Karen Swallow Prior, an anti-abortion advocate, finds the *New York Times*’s reports unconvincing:

[T]he distinction between contraception and abortion is the difference between life and death...

Some pro-lifers, this one included, find it at least a little bit suspect that now, in the midst of controversy around this issue that directly threatens... this aspect of the Obama administration’s attempts at national health care overhaul, scientists are suddenly backtracking on long held views about how the birth control pill works...

It may be nearly impossible to prove exactly how hormonal contraception works within the current state of science... [Contrary] evidence is compelling enough for many pro-lifers to err on the side of life.<sup>160</sup>

Within the “personhood” movement, activists disagree among themselves about whether the birth-control pill is an abortifacient or not. The Personhood Initiative, for example, claims that the greater miscarriage rate among women who become pregnant while on the pill compared to while not on the pill proves “the abortifacient nature of oral contraceptives.”<sup>161</sup> Anti-abortion website About73.com lists birth-control pills under the heading of “birth control methods that might cause abortion.”<sup>162</sup> Colorado Right to Life classifies the birth-control pill as a “chemical abortifacient that kills the tiniest boys and girls.”<sup>163</sup>

In contrast, the American Association of Pro-Life Obstetricians and Gynecologists takes no position on the birth-control pill, instead hosting two papers which “come to different conclusions about the possible abortifacient effect of oral contraceptives” and suggesting that “each individual physician should evaluate the available information, and then follow the leading of his/her conscience in this matter.”<sup>164</sup> Meanwhile, Personhood USA favorably cites a blog post from the Life Training Institute titled “Does a Thin Uterine Lining Support the ‘Pill as Baby Killer’ Theory?” which argues that the birth-control pill likely does not have an abortifacient effect.<sup>165</sup> However, as the comments on that blog post reveal, many advocates of “personhood” prefer to err on the side of caution—meaning that they will regard the birth-control pill as an abortifacient unless definitively proven to only prevent fertilization.

Notably, “personhood” activists seem to be uniformly opposed to the morning-after pill, regarding that as a likely abortifacient, despite the scientific questions about any post-fertilization effects.<sup>166</sup> The American Association of Pro-Life Obstetricians and Gynecologists, for example, objected to the FDA’s labeling of morning-after pill “ella,” on the grounds that “women deserve to know that ‘ella’ can cause death of the embryo.”<sup>167</sup>

Here, we must remember that “personhood” measures declare that a just-fertilized zygote has the same legal rights as a born infant. Obviously, the birth-control pill or morning-after pill confers no health benefit to a potential embryo. So if it might kill an embryo, that risk might be sufficient for zealous legislators to outlaw such forms of birth control, prosecutors to pursue charges for their use, and doctors to decline offering prescriptions for these drugs for fear of prosecution.

Importantly, a ban on the birth control pill would affect most sexually active couples. A report from the Centers for Disease Control shows widespread use of birth

control, noting that, as of 2008, 99 percent “of all women who had ever had intercourse had ever used at least one contraceptive method,” and 82 percent “had ever used the oral contraceptive pill.” The report continues: “The leading current method of contraception in the United States in 2006–2008 was the oral contraceptive pill. It was currently being used by 10.7 million women aged 15–44 years.”<sup>168</sup>

The reason for the pill’s popularity is not difficult to fathom; it is not only easy to use but also highly reliable. With “perfect use,” the pill is more effective than sterilization and condom use, the second and third most popular forms of birth control; only 0.3 percent of women on the pill experience an unwanted pregnancy within the first year of use, compared to 0.5 percent for tubal ligation (sterilization) and 2.0 percent for condoms.<sup>169</sup> So women forced to switch from the birth control pill to condom use due to a “personhood” measure would, given perfect use, experience around seven times the number of unintended pregnancies. Although effective, sterilization is surgically invasive and permanent, and it exposes women to an increased risk of ectopic pregnancy and other problems.<sup>170</sup> “Personhood” laws could require many thousands of women to scramble to find a new method of birth control, yet none is likely to be as convenient and effective as the pill.

Before turning to fertility treatments, let us pause to put the possible “post-fertilization effect” of these birth control methods in perspective. Natural or spontaneous abortion is a routine occurrence. Many zygotes fail to implant, and they are flushed out of a woman’s body. Due to the difficulty of detecting when a woman’s body rejects a zygote, estimates of prevalence range widely. One researcher summarizes, “In humans, it has been estimated that between 30% and 70% of conceptuses are lost before or at the time of implantation, without women being aware that they were pregnant.”<sup>171</sup> Even after a woman becomes pregnant with the implantation of the embryo, the risks of losing the embryo by natural causes still hover around 10 to 25 percent.<sup>172</sup> Moreover, as William Saletan observes for *Slate*, activities that may inhibit implantation include breast feeding, drinking coffee, and exercising.<sup>173</sup> Hence, nature is by far the greatest cause of death for zygotes and embryos. Yet notice that such natural deaths are not lamented, nor regarded as a public health crisis—not even by those who think of the embryos as persons. In essence, “personhood” measures would ban forms of birth control that mimic the body’s natural processes.

In summary, if a newly fertilized zygote is a person, then birth control that blocks implantation even sometimes must be outlawed, with its use and distribution criminally penalized. The same would apply to any medication unrelated to birth control that might harm a zygote, regardless of the costs in pain and suffering to women. “Personhood” laws would thus profoundly impact the reproductive lives of women even before implantation, the common marker of the beginning of pregnancy.

### **Bans of Common Fertility Treatments**

“Personhood” laws would require dramatic changes to the treatment of embryos in laboratory settings, including fertility clinics and research facilities. Such changes further illustrate the harm Amendment 67 and like measures would inflict on real people as well as the absurdities that arise from granting legal rights to newly fertilized zygotes.

The Division of Reproductive Health of the Centers for Disease Control reports that “of the approximately 62 million women [in America] aged 15–44 years in 2010, about 7.4 million, or 12%, had received infertility services at some time in their lives.”<sup>174</sup> In 2011, the 451 fertility clinics evaluated helped women deliver over 52,000 infants. Worldwide, researchers estimate that about five million babies were born with the help of in vitro fertilization between 1989 and 2007.<sup>175</sup>

Those mothers would not be mothers, and their children would not exist today, but for fertility treatments. “Personhood” advocates, who claim to “respect life,” would outlaw most such births by granting full legal rights to the embryos created by fertility clinics. The problem is that some common fertility treatments—particularly in vitro fertilization—involve the destruction of embryos.

How so? The CDC report cited above explains the basic process of in vitro fertilization as follows:

The main type of [assisted reproductive technology] is in vitro fertilization (IVF). IVF involves extracting a woman’s eggs, fertilizing the eggs in the laboratory, and then transferring the resulting embryos into the woman’s uterus through the cervix.<sup>176</sup>

Embryos that are not implanted immediately are often saved for later implantation or donation via freezing. When those frozen embryos are implanted in later fertility treatment cycles, the woman need not undergo the process of stimulation or retrieval used to acquire her eggs. As a result, these cycles are usually less expensive and less invasive than cycles using fresh embryos. Ultimately,

freezing some of the embryos from a retrieval procedure may dramatically increase a woman’s overall chances of having a child from a single retrieval of eggs.<sup>177</sup>

The Colorado Center for Reproductive Medicine explains the process of freezing embryos during in vitro fertilization:

In cases of normal sperm function, the eggs and several thousand sperm are placed together in a dish which contains a nutrient liquid. These dishes are kept in an incubator overnight and are examined under the microscope on the morning after the egg retrieval to determine which eggs have fertilized normally...

Some couples are fortunate enough to collect a large number of embryos from one egg collection. Any remaining viable embryos that are not transferred into the woman’s uterus during the month of treatment may be frozen (“cryopreserved”) in small tubes and kept in storage in the embryo laboratory for future use. Cryopreservation allows the patient to limit the number of embryos transferred “fresh” without discarding the unused embryos that could lead to a future pregnancy. The embryos may be kept in storage for several years. By transferring frozen-thawed embryos into the uterus, some patients have achieved 2–3 pregnancies in different years from just one egg collection.<sup>178</sup>

Notice that freezing embryos is considered to be a desirable and routine part of this common fertility treatment. If a clinic attempted to fertilize only one or two eggs at a time, that would dramatically reduce the effectiveness of the treatment and dramatically increase its cost. Because many eggs don’t fertilize in any given treatment cycle, some women restricted to treatment involving single-egg fertilization would risk waiting too long to get pregnant as well. As Atlee Breland of Parents Against Personhood observes:

Overall, up to 50% of the retrieved eggs will not fertilize, and up to 50% of these microscopic embryos will stop dividing prior to being transferred back into the woman 2-5 days later. Doctors aim to retrieve 8-10 eggs to produce approximately two viable embryos per cycle. However, there’s no way to know in advance how many eggs will fertilize and begin to divide. Those 10 eggs could produce 10 embryos, or none. ...

If only one or two eggs are retrieved at a time, the overwhelming majority of IVF cycles would result

in failure. Most couples cannot afford to pay \$12-15,000 per cycle when the success rate would be only around 5%, as opposed to the current rate of around 40%.<sup>179</sup>

Alternately, a woman could risk becoming impregnated with several embryos, which could create severe health problems or produce more children than a couple is prepared to raise.

The most obvious conflict between “personhood” measures and in vitro fertilization is that many embryos are not transferred to the woman’s uterus. Under “personhood” measures, embryos in the lab could not be allowed to perish, nor languish in cold storage, as they would be considered persons with rights, and frozen embryos remain viable only for a few years. To eliminate such practices would render in vitro fertilization not worth doing for most infertile couples. So the practical result of Amendment 67 likely would be to shut down Colorado’s fertility clinics and put an end to the births they facilitate.

Once again, these concerns about the effect of “personhood” measures on are not merely theoretical. Advocates of “personhood” often attack in vitro fertilization for its supposedly inhumane treatment of embryos. For example, *LifeSiteNews* reported on a 2010 study by the American Society for Reproductive Medicine (ASRM) showing that “just 7.5 percent of all artificially fertilized embryos will go on to become live-born children.” The article then says:

When British physiologist Dr. Robert Edwards, a pioneer of in vitro fertilization whose work led to the birth of Louise Brown, the “first” IVF baby in 1978, was awarded the Nobel Prize for physiology/medicine earlier this month, Ignacio Carrasco de Paula, the recently appointed head of the Pontifical Academy for Life, pointed out that the award ignores the moral and ethical questions raised by artificial methods of reproduction, and disregards the destruction of countless human beings.<sup>180</sup>

The site also features articles such as “Change of heart: Eminent [sic] Chicago IVF doctor quits practice of creating babies in Petri dishes” and “UK IVF Clinics Have Intentionally Killed over One Million Human Embryonic Children”<sup>181</sup> One columnist on the site writes:

Our society thinks that because human embryos are small, weak and physically insignificant they are expendable. But this is at odds with the God’s loving grace, which sees even the weakest of human

beings as precious, and worthy of wonder, love, respect and protection.<sup>182</sup>

Moreover, the Catholic Church opposes any freezing of embryos on the grounds that such embryos are persons with a right to life, saying:

The freezing of embryos, even when carried out in order to preserve the life of an embryo—cryopreservation—constitutes an offence against the respect due to human beings by exposing them to grave risks of death or harm to their physical integrity and depriving them, at least temporarily, of maternal shelter and gestation, thus placing them in a situation in which further offences and manipulation are possible.<sup>183</sup>

Personhood USA seems to deny that “a personhood law could ban in vitro fertilization (IVF),” saying:

Recognizing that human embryos are persons implies that IVF clinics treat the tiny human beings in their charge ethically, with reasonable appropriate care just as they do for other patients.<sup>184</sup>

However, as Atlee Breland observes, “If you understand the medical realities of IVF, it’s clear that [the] restrictions [imposed by a “personhood” measure on IVF, such as a ban on freezing embryos] amount to a de facto ban.”<sup>185</sup>

**In the context of a “personhood” law, the basic problem with in vitro fertilization is that often not all of the embryos are transferred to the woman’s uterus. Embryos in the lab could not be allowed to perish, nor languish in cold storage.**

Finally, consider how a “personhood” measure would change the legal status of all the frozen embryos now in existence: they would suddenly become “persons” under the law, with all the rights of born infants. Presumably, women would be forced to implant (or donate for



implantation) all their existing embryos—or face criminal charges. Moreover, if the biological parents of a frozen embryo die, presumably the embryo has full rights of inheritance, thereby reducing the share of any born children, though how the frozen embryo will grow up to collect remains a problem.

This fantastical scenario highlights the absurdity of treating an embryo as a person in the law. However, the farce of granting legal rights to frozen embryos ought not obscure the much more important point: fertility treatments bestow the gift of a child to many hundreds of Colorado women and men each year, a gift that Amendment 67 would smother.

### **Bans of Embryonic Stem Cell Research**

“Personhood” laws would ban all medical research that might harm embryos—even though such research may help save and improve the lives of countless born people. The National Institutes of Health summarizes some of the potential benefits of embryonic stem cell research:

[S]tudying stem cells will help us to understand how they transform into the dazzling array of specialized cells that make us what we are. Some of the most serious medical conditions, such as cancer and birth defects, are due to problems that occur somewhere in this process. A better understanding of normal cell development will allow us to understand and perhaps correct the errors that cause these medical conditions.

Another potential application of stem cells is making cells and tissues for medical therapies. ... Pluripotent stem cells [from human embryos] offer the possibility of a renewable source of replacement cells and tissues to treat a myriad of diseases, conditions, and disabilities including Parkinson’s disease, amyotrophic lateral sclerosis, spinal cord injury, burns, heart disease, diabetes, and arthritis.<sup>186</sup>

Advances in recent years, while often still in clinical trials, point to the potential benefits of embryonic stem cell research—and illustrate the hostility such research generates from religious opponents of abortion. Abroad, London’s *Telegraph* reports: “Researchers used more than a 100 spare embryos left over from treatment at fertility clinics to establish several embryonic stem cell ‘lines.’ One of those lines...was transformed into blood stem cells before they were converted into red cells containing haemoglobin, the oxygen-carrying pigment.” Such research may lead to safe, abundant blood supplies. A Catholic critic who once ran for office

with the ProLife Alliance party condemned the research as “proposed destructive use of embryos.”<sup>187</sup>

In the U.S., *CNN* reports:

The first human clinical trial of a therapy involving embryonic stems cells has been approved [by the FDA] to proceed... The purpose of this first phase of research in humans is to test the safety of a therapy in patients with spinal cord injury. Candidates for the trial are those with the most severe injuries.<sup>188</sup>

In response to the development, the *National Catholic Register* pointed out that any destruction of an embryo defies official Catholic policy: “The killing of innocent human creatures, even if carried out to help others, constitutes an absolutely unacceptable act.” While the article also discusses potential scientific limitations to the research, it presents a religious position that would oppose embryonic stem cell research regardless of its effectiveness.<sup>189</sup>

So in the name of “respecting life,” “personhood” advocates would impose a death sentence on the real people whose lives might be saved through embryonic stem cell research.

### **Amendment 67 Is Anti-Life**

Considering the logical implications of Colorado’s Amendment 67 and comparable “personhood” laws, one can only rationally conclude that these proposals are profoundly anti-life, not “pro-life” as its advocates pretend.

To summarize the findings of this section, if fully enforced, Amendment 67 would threaten severe legal penalties, possibly including the death penalty, for intentionally harming a zygote, embryo, or fetus.

It would outlaw all elective abortions, forcing pregnant women to give birth against their judgment of what’s best for their lives, and it would encourage dangerous illegal abortions.

It would outlaw medical intervention that might harm an embryo or fetus except in cases of severe risk to the woman’s life, and even then the measure might strongly discourage doctors from intervening. In cases of risks to a woman’s health only, or in cases of uncertain risk to life, Amendment 67 would threaten a doctor with criminal prosecution for taking action to help a pregnant woman.

Amendment 67 would ban abortion even in cases of rape, incest, and terminal fetal deformity.

It would ban any form of birth control—including the IUD, and possibly the birth-control and morning-after pills—that might prevent a zygote from implanting in the uterus, thereby forcing couples to resort to less effective forms of birth control and causing more unplanned pregnancies.

It would effectively ban fertility treatments, thereby preventing hundreds of Colorado families from having a child each year.

And it would ban embryonic stem cell research that could save or improve countless lives of actual, born people.

Calling Amendment 67 a “pro-life” measure, when it would actively damage, prevent, or destroy the lives of so many actual people, is an appalling inversion of the truth. Amendment 67 is an anti-life measure that should be morally condemned as such.

## Individual Rights and Abortion

As seen in detail in the prior section, if the agenda of the “personhood” movement were adopted and enforced by law, women and men would suffer serious harms, many permanent and some even life-threatening. These dire effects of “personhood” laws are no accident. They are the predictable result of violating the rights of true persons by fabricating rights for embryos and fetuses. Contrary to the assertions of “personhood” advocates, rights begin at birth. Only then does the newly born infant become a distinct human person with a right to life.

These truths about the origin of rights have been obscured by the facile semantic arguments in favor of “personhood,” as well as by the inadequate and misguided arguments of today’s typical defenders of abortion rights. In fact, rights are neither grants from God, nor favors from the Supreme Court. In particular, abortion rights, properly understood, are not based on a woman’s supposed “right to privacy,” nor subject to limitation by “state interests,” as ruled in *Roe v. Wade*. And embryos and fetuses should not be granted rights based on their potential to develop into human persons. The proper view of rights during pregnancy is based on fundamental facts about human nature. Those facts dictate that pregnant women—not zygotes, embryos, or fetuses—have rights.

### The Compromise of *Roe v. Wade*

In *Roe v. Wade*, the court upheld abortion rights based on a “right to privacy” but limited those rights by “state

interests.” Of laws that forbid abortion except to save the life of the woman, the court held:

[Such laws] violate the Due Process Clause of the Fourteenth Amendment, which protects against state action the right to privacy, including a woman’s qualified right to terminate her pregnancy. Though the State cannot override that right, it has legitimate interests in protecting both the pregnant woman’s health and the potentiality of human life, each of which interests grows and reaches a “compelling” point at various stages of the woman’s approach to term.<sup>190</sup>

In practice, the court ruled that states must leave abortion to “the medical judgment of the pregnant woman’s attending physician” during the first trimester. Thereafter, state interests in the health of the mother and the fetus could override privacy rights. So in the second and third trimesters, states could “regulate the abortion procedure in ways that are reasonably related to maternal health.” Also, when the fetus becomes viable outside the womb, states could “regulate, and even proscribe, abortion except where necessary, in appropriate medical judgment, for the preservation of the life or health of the mother”—due to their “interest in the potentiality of human life.”

**The court’s decision in *Roe v. Wade* was a compromise between “pro-choice” and “pro-life” positions. It permitted abortion, but only under certain conditions and subject to much state regulation. The court’s rationale for these compromises was murky, to say the least.**

The court’s decision was a compromise between “pro-choice” and “pro-life” positions. It permitted abortion, but only under certain conditions and subject to much state regulation. The decision denied the claim that “the fetus is a ‘person’ within the language and meaning of the Fourteenth Amendment.” Yet at the same time, it rejected the principle that “the woman’s right is absolute” such that

“she is entitled to terminate her pregnancy at whatever time, in whatever way, and for whatever reason she alone chooses.” It focused on the well-being of the mother, yet sought to protect the viable fetus too. And while the court refused to say that “a new human life is present from the moment of conception,” that was only because it declined to “resolve the difficult question of when life begins.”

The court’s rationale for these compromises was murky, to say the least. The majority opinion asserted an undefined “right to privacy” based on “the Fourteenth Amendment’s concept of personal liberty and restrictions upon state action.” The opinion declared that right “broad enough to encompass a woman’s decision whether or not to terminate her pregnancy,” yet did not explain why or how. Moreover, the strength of that right was held to depend on the stage of the pregnancy, for as the fetus develops, “the woman’s privacy is no longer sole,” such that “any right of privacy she possesses must be measured accordingly.” So as the woman’s privacy rights diminish, the state could intervene to promote its significant interests, such as “that of health of the mother or that of potential human life.”

Compared to its appeal to the “penumbras” of the Bill of Rights for a right to privacy, the court was far more clear in its concern for the damage inflicted on women and families by abortion bans:

The detriment that the State would impose upon the pregnant woman by denying this choice altogether is apparent. Specific and direct harm medically diagnosable even in early pregnancy may be involved. Maternity, or additional offspring, may force upon the woman a distressful life and future. Psychological harm may be imminent. Mental and physical health may be taxed by child care. There is also the distress, for all concerned, associated with the unwanted child, and there is the problem of bringing a child into a family already unable, psychologically and otherwise, to care for it. In other cases, as in this one, the additional difficulties and continuing stigma of unwed motherhood may be involved. All these are factors the woman and her responsible physician necessarily will consider in consultation.

Given the weak ideological defense of abortion rights offered by the court, these policy concerns were likely of paramount concern in the decision. Yet as we shall see, such pragmatic objections to abortion bans cannot justify abortion rights, particularly not in the face of the claim that the embryo or fetus is a person with the same right to life as a born infant.

### Today’s “Pro-Choice” Rhetoric

Today’s most prominent defenders of abortion rights follow in the footsteps of *Roe v. Wade*. By and large, they offer superficial and pragmatic defenses of abortion rights based on vague appeals to privacy, coupled with accounts of the harms inflicted by abortion bans.

The websites of the two most prominent pro-choice advocacy groups in America—Planned Parenthood and NARAL Pro-Choice America—offer no substantive defense of the right to abortion. They simply assert a broadly pro-choice position, without grappling with the difficult moral and legal questions raised by abortion. For example, the website of Planned Parenthood’s “Action Center” offers the following as their sole defense of “abortion access”:

Our primary goal is prevention—reducing the number of unintended pregnancies. While teen pregnancy rates have declined significantly since 1990, the number of repeat teen birth rates remains high and we still have a lot of work to do. That’s why it is important that every woman have access to affordable birth control, so she can choose and consistently use the method that works for her. At the same time, decisions about whether to choose adoption, end a pregnancy, or raise a child must be left to a woman, her family, and her faith, with the counsel of ... her doctor or health care provider—not to politicians.<sup>191</sup>

Only a few of the organization’s posted research papers concern abortion, and those that do focus solely on the history of abortion rights, the safety of abortion, and abortion statistics.<sup>192</sup> Similarly, NARAL Pro-Choice America’s online writings on abortion seem limited to reports on the legal status of abortion rights and fact sheets for reporters and researchers.<sup>193</sup>

The failure of these two most prominent pro-choice groups to address the philosophic questions surrounding abortion does not bode well for abortion rights in America, particularly in light of the rise of a fervent “personhood” movement. That’s because neither vague appeals to the privacy rights of pregnant women nor the harms wrought by abortion bans are of any importance if conception creates a person with a right to life. Why not?

First, if embryos and fetuses are persons, then a pregnant woman cannot claim that her decision to terminate her pregnancy should be respected as “private.” She would be obliged to respect the rights of the innocent person within her—and if she failed to do so, the state could and should

intervene. To seek an abortion would not be a “private medical decision” but rather akin to hiring a hit man—which is, in fact, the kind of argument made by advocates of “personhood.”

Second, if embryos and fetuses are persons, then the pregnant woman would be obliged to endure any financial burdens, health problems, or emotional strain caused by the pregnancy. The right to life of the embryo or fetus would override every such concern, except perhaps the woman’s own life. To abort an embryo or fetus due to inconvenience or hardship in pregnancy would be just as horrifying as suffocating one’s elderly parents due to difficulties in providing them care.

Third, if embryos and fetuses are persons, then women who suffer terrible complications from illegal abortions have only themselves to blame. To demand legal abortion on that basis would be as bizarre as legalizing assault or rape to prevent perpetrators of those crimes from injuring themselves. The law should protect the victim of the crime (here, the embryo or fetus) not the perpetrator (here, the pregnant woman).

In sum, the standard pro-choice arguments for abortion rights drawn from *Roe v. Wade* cannot withstand the basic claim of “personhood” advocates that fertilization creates a new human person with its own right to life. As Christopher Kurka, the sponsor of the “personhood” initiative in Alaska said, “If...we recognize the unborn as persons, then a woman’s right to choose or a right to privacy doesn’t matter [just like] she doesn’t have a right to kill her child after it’s born.”<sup>194</sup>

The opinion of the Court in *Roe v. Wade* acknowledges its own weakness against “personhood” claims openly: “If this suggestion of personhood is established, the [pro-choice] case, of course, collapses, for the fetus’ right to life would then be guaranteed specifically by the [Fourteenth] Amendment.” The advocates of “personhood” have made much of that concession, citing it frequently as the source of their legal strategy.<sup>195</sup> In light of that, the dependence of pro-choice groups on the precedents set by and arguments of *Roe v. Wade* must be regarded as dangerous. If overturned—or even challenged on its basic assumptions—abortion rights would be left without any defense. That is precisely and explicitly the result the “personhood” movement strives to accomplish.

Unfortunately, the standard-bearers of the pro-choice movement have not risen to the challenge posed by the “personhood” movement—not even when faced with

Colorado’s Amendment 48 in 2008, Amendment 62 in 2010, and now Amendment 67 in 2014. Instead, they have declined to state any definite positions on the extent of abortion rights or offer any substantive arguments for such rights.

For example, the “NO on 67 Campaign” is the major pro-choice coalition against “personhood” measures in Colorado. Under the name “Protect Families, Protect Choices,” this coalition campaigned effectively against Amendments 48 and 62 on the basis of their practical consequences. They are doing the same in 2014, clearly showing the true meaning and implications of Amendment 67.<sup>196</sup> Yet the coalition’s often-repeated campaign slogans—“It Simply Goes Too Far” in 2008, “It Still Goes Too Far” in 2010, and “It Goes Too Far” in 2014—cede moral ground to the opponents of abortion. Those slogans suggest a compromise, as if some restrictions on abortion might be proper, albeit not the full ban demanded by “personhood” advocates. Perhaps the embryo or fetus should be granted legal rights in the third trimester. Perhaps abortions should be permitted only in cases of rape, incest, deformity, or risk to the life of the woman. Yet surely coalition members like NARAL Pro-Choice Colorado and Planned Parenthood of the Rocky Mountains would (and should) oppose any such restrictions on abortion.<sup>197</sup>

**Unfortunately, the standard-bearers of the pro-choice movement have not risen to the challenge posed by the “personhood” movement by offering substantive arguments in defense of abortion rights.**

Even when directly challenged to state a position on when rights begin in human life, the spokesperson for this coalition at the time skirted the issue. For example, in an online chat for the *Rocky Mountain News* in 2008, Crystal Clinkenbeard said:

It is incredibly hard to describe a blanket time when constitutional rights should apply. Reasonable people disagree passionately about when life begins.



Amendment 48 does nothing to [resolve] that difficult social issue. Instead, it is more divisive. That kind of decision needs to be left to individuals to follow their own moral, philosophical beliefs.<sup>198</sup>

That answer is not mere evasion. It is wrong in a deeper way, in that it suggests that abortion rights can be founded on skepticism and relativism.

The most basic function of any government is to protect rights, and that requires constitutional provisions and laws recognizing the nature and extent of rights. For the government to adopt a seemingly neutral stance on claims of rights, such that people would have to act based on their own opinions about who has what rights, would be anarchy. In theory, the pro-choice woman would be entitled to terminate her pregnancy, in accordance with her beliefs—just as the anti-abortion activist would be entitled to stop her by force, in accordance with his beliefs. The result would be violent conflict. In practice, however, such neutrality about rights usually amounts to an implicit denial of rights, in that the government would refrain from recognizing or protecting them. Yet the government might attempt to accommodate opposing views—and hence adopt a compromise position—exactly as it did in *Roe v. Wade*. Then, instead of enjoying the benefit of sound jurisprudence, a society must endure persistent simmering political conflict.

“Pro-choice” advocates may seem to achieve their goals by this approach because embryos and fetuses are not granted rights. Yet far from securing abortion rights, these skeptical arguments undermine their very foundation. Skepticism is an illusory basis for rights, easily defeated by even barely plausible arguments for “personhood.” Moreover, such skepticism sets a dangerous precedent. Just imagine, for example, the violence that would be unleashed against innocent people if a government allowed people to “follow their own moral, philosophical beliefs” about the rights of women, gays, immigrants, and the elderly on the grounds that their rights constitute a “difficult social issue.”

The government must take a stand on claims of rights. If embryos and fetuses are persons with rights, the government must actively protect them from harm. Conversely, if no such rights exist, then the government must actively protect women seeking abortions and the doctors who perform them from obstruction and violence by anti-abortion activists. People are only entitled to “follow their own moral, philosophical beliefs” in choosing whether to terminate a pregnancy or bring it to term if embryos and fetuses are not persons with a right

to life. Yet that is the very question that these prominent pro-choice activists do not discuss, even when directly challenged by the “personhood” movement.

Ultimately, “personhood” measures are not wrong because they are too extreme, too divisive, or too intrusive—as pro-choice activists are wont to claim. Fundamentally, they’re wrong because embryos and fetuses are not human persons with the right to life. To understand why that’s so, we must examine the core arguments for the “personhood” of embryos and fetuses.

### **Core Arguments for “Personhood” Laws**

The activist groups seeking to make “personhood” measures the law of the land offer two distinct arguments for granting full legal rights to embryos and fetuses, one religious and one secular. Often first and foremost, they claim that the embryo or fetus is an innocent life recognized and valued as such by God. Hence, abortion is a grave violation of God’s prohibition on murder.<sup>199</sup> However, as we argue in a later section, America was founded as a free country, not a theocracy. To force people to obey God’s alleged laws is a clear violation of their liberty rights, as well as a violation of the separation of church and state. However, many of these groups offer a secular justification for “personhood” too. They claim that every human has an inalienable right to life, that the humanity of the embryo and fetus is self-evident, and that abortion grossly violates their rights.<sup>200</sup>

**On its surface, the secular argument for “personhood” might seem so simple as to be unassailable. Yet in fact, that simplicity conceals fatal defects in its implicit view of the nature and source of rights.**

What do “personhood” advocates say to justify this claim of self-evident humanity? The argument is stated briefly on the website of Personhood USA as follows:

The science of fetology in 1973 [at the time of *Roe v. Wade*] was not able to prove, as it can now, that a fully

human and unique individual exists at the moment of fertilization and continues to grow through various stages of development in a continuum (barring tragedy) until natural death from old age. ...If you look up the word “person” in your average dictionary...you’ll find something like this: Person n. A human being. A person, simply put, is a human being. This fact should be enough. The intrinsic humanity of unborn children, by definition, makes them persons and should, therefore, guarantee their protection under the law.

As a result, Personhood USA claims, all “unborn children” should be recognized as possessing “certain rights such as the right to life, liberty and the pursuit of happiness.”<sup>201</sup>

More substantive defenses of the view that embryos and fetuses are fully human persons with the right to life are found in sources cited by “personhood” groups, such as the website Abort73.com and the book *Prolife Answers to Prochoice Arguments* by Randy Alcorn.<sup>202</sup> Here, we will outline that argument in its secular form, ignoring appeals to “God-given” rights and Christian scripture.

The argument for the self-evident humanity of the embryo and fetus begins with the scientific claim that the life of a human being begins at conception. Apart from any religious beliefs, it says, the science of medicine overwhelmingly affirms that a new human life is created when a sperm fertilizes the egg.<sup>203</sup> That new life is thoroughly human, highly complex, biologically active, and distinct from the pregnant woman. It is neither a blob of tissue, nor just a part of the pregnant woman’s own body as are her organs.<sup>204</sup> As Abort73.com says:

At the moment of fertilization, a new and unique human being comes into existence with its own distinct genetic code. Twenty-three chromosomes from the mother and twenty-three chromosomes from the father combine to result in a brand-new and totally unique genetic combination. Whereas the heart, lungs, and hair of a woman all share the same genetic code, her unborn child, from the moment of fertilization, has a *separate* genetic code that is all its own. There is enough information in this tiny zygote to control human growth and development for the rest of its life.<sup>205</sup>

In essence, advocates of “personhood” claim that the fertilization of the egg by the sperm creates a new, distinct, and thoroughly human life, i.e. a human being. The resulting zygote, embryo, and then fetus is not

merely a potential human being: it is an actual human being in an early stage of development.<sup>206</sup>

Next, the argument asserts that to be a person—in the sense of possessing the rights to life, liberty, and the pursuit of happiness—requires only that something be a human being. Abort73.com says:

There are essentially two issues which must be resolved concerning unborn embryos and fetuses. The first is, “Are they human beings?” The second is, “Should they be recognized as persons under the law?” We’ve already established that there is no debate on the first question. ...So should humans be recognized as persons under the law? Yes, because humans are persons. Something is a person if it has a personal nature. In other words, something is a person if, by nature, it has the capacity to develop the ability to think rationally, express emotion, make decisions, etc. This capacity is something that a person has as soon as he begins to exist, since it is part of his nature (in other words, if he exists, he has it). Since humans have a personal nature, humans are persons. As for the fetus, since it is a human (and so, something with a personal nature), it is a person. Just as a cat qualifies as a feline simply by being a cat, a fetus qualifies as a person simply by being a human. So, it is impossible for a fetus to not be a person.<sup>207</sup>

In other words, the capacity to exist as a person is simply part of human nature. That intrinsic personhood does not depend on any further qualities that might be developed later, such as “size, skill, or degree of intelligence.”<sup>208</sup> In his book *Prolife Answers to Prochoice Arguments*, Randy Alcorn writes:

Age, size, IQ, or stage of development are simply differences in degree, not in kind. Our kind is our humanity. We are people, human beings. We possess certain skills to differing degrees at different stages of development. When we reach maturation there are many different degrees of skills and levels of IQ. But none of these make some people better or more human than others. None make some qualified to live, and others unqualified.<sup>209</sup>

On this view, a person is nothing more or less than a human being: all persons are humans and all humans are persons. Hence, Abort73.com states, “a person...is nothing more or less than a living human. ....The differences that exist between a human being before birth and a human being after birth are differences that don’t matter.”<sup>210</sup>

Finally, the argument claims, the fact that every human life from conception to natural death is a person has profound political and legal implications. “The intrinsic humanity of unborn children qualifies them as persons and should, therefore, guarantee their protection under the law.”<sup>211</sup> More specifically, the embryo and fetus have “the one most fundamental right that no one can live without, the right to life”—just like a born infant.<sup>212</sup> While women have rights to their own bodies, as well as to the lifestyles of their choosing, those rights are not “absolute and unconditional”: they must be limited in pregnancy due to the more fundamental right to life of the embryo or fetus.<sup>213</sup>

Ultimately then, according to “personhood” advocates, a pregnant woman cannot have the right to choose to get an abortion any more than she can properly choose to commit assault, murder, or theft.<sup>214</sup> Since abortion destroys the life of another person, it must be outlawed as a willfully criminal act.<sup>215</sup> To support abortion rights is to sanction the ongoing genocide against the unborn, with about 50 million dead so far.<sup>216</sup>

Now, with that clear picture of the secular argument for “personhood” firmly in mind, we can take a fresh look at the question of rights in pregnancy.

### **Rights in Pregnancy**

On its surface, the secular argument for “personhood” might seem so simple as to be unassailable. Yet in fact, that simplicity conceals fatal defects in its implicit view of the nature and source of rights. Rights are not inherent in human biology: the right to life is nowhere stamped on our DNA. Rather, rights are principles identifying the freedoms of action required for human flourishing in a social context. As we shall see, such rights can and do apply to born infants, but they cannot be legitimately or coherently extended to embryos or fetuses.

The basic biological facts cited in the secular argument for “personhood” laws are not controversial. The fertilization of an egg by a sperm creates a new human life, distinct from that of its genetic parents. By an active, complex, and gradual process of development, that zygote may grow into an embryo and fetus, emerge from the womb as an infant, develop through childhood, mature into an adult, and finally age until death. However, contrary to the argument for “personhood,” that process of biological development does not establish that the zygote, embryo, or fetus is a human person with a right to life. Why not?

“Personhood” advocates assume that each and every human life, whatever its qualities or situation, must be a person too. They offer no argument for or explanation of that view. Yet in fact, the concepts are distinct, such that they need not perfectly coincide. In other words, the concepts of “person” and “rights” may not apply to all forms and stages of human existence. The distinction is simple. The concept of “human life” or “human being” used in the first half of the argument for “personhood” is purely biological. It identifies an organism as part of the human species. The concept of “person” used in the second half of the argument for “personhood” concerns politics. It identifies some entity as entitled to claim rights. To slide between these two distinct concepts using the term “human being”—as “personhood” advocates consistently do—is to commit the fallacy of equivocation.

**Rights are not inherent in human biology or DNA. They are moral principles identifying the freedoms of action required for human flourishing in a social context.**

The scope of the political concept “person” cannot be specified by science. That is a question for philosophy, to be answered based on an objective theory of the nature and source of individual rights. That these biological and political concepts might not coincide perfectly is hardly appalling, as “personhood” advocates suggest.<sup>217</sup> Rather, the very purpose of the political concept “person” is to enable us to specify the scope of rights apart from any rigid biological criteria.

The advocates of “personhood” dogmatically assert that every human life is a person for a very simple reason: their secular defense of “personhood” is mere veneer on a deeply religious worldview whereby rights can only be understood as gifts arbitrarily bestowed by God. By creative and selective readings of their scriptures, combined with distorted appeals to America’s founding principles, the advocates of “personhood” believe that God bestows the right to life at conception. That is why

they consider embryos and fetuses persons. However, that is an article of faith, not a matter of rational conviction—and unsurprisingly, the facts show otherwise. Hence, even the secular argument for “personhood” is ultimately religious at its root.

To understand the rights applicable to pregnancy, we must sketch an objective theory of rights. In short, the rights of persons are not gifts from a divine creator, nor found in scripture, as conservatives often imagine. Nor are rights mere entitlements and permissions bestowed and rescinded by majority vote, as modern liberals suppose. Rather, rights are principles identifying our proper freedom of action. And they are rooted in facts about human nature, particularly the conditions for survival and flourishing in society.<sup>218</sup> How so?

Humans cannot survive and flourish by tooth and claw—nor by our feelings, instincts, or faith. We live by exercising our distinctive capacity to reason in order to produce the values required for life—or we perish. That simple fact of human nature is the source of our rights. As Ayn Rand explains:

Since man’s mind is his basic tool of survival, his means of gaining knowledge to guide his actions—the basic condition he requires is the freedom to think and to act according to his rational judgment. ...If men are to live together in a peaceful, productive, rational society and deal with one another to mutual benefit, they must accept the basic social principle without which no moral or civilized society is possible: the principle of individual rights.<sup>219</sup>

So what are rights? Again, Ayn Rand explains:

A “right” is a moral principle defining and sanctioning a man’s freedom of action in a social context. There is only one fundamental right (all the others are its consequences or corollaries): a man’s right to his own life. Life is a process of self-sustaining and self-generated action; the right to life means the right to engage in self-sustaining and self-generated action—which means: the freedom to take all the actions required by the nature of a rational being for the support, the furtherance, the fulfillment and the enjoyment of his own life. (Such is the meaning of the right to life, liberty and the pursuit of happiness.)<sup>220</sup>

In essence, “to recognize individual rights means to recognize and accept the conditions required by man’s nature for his proper survival.”<sup>221</sup>

On this objective theory of rights, a person’s rights are absolute and inalienable, yet they arise in and pertain to a social context. That’s because individual rights are the most basic principle of justice in a society. They’re neither innate qualities—nor gifts bestowed by divine powers, constitutional tradition, political leaders, or voters. Moreover, genuine rights cannot conflict, nor require the sacrifice of some persons to others. That’s because rights protect each person’s power to pursue his own life and happiness, free of forcible interference from others. Rights are freedoms to action, not entitlements to goods and services provided by others, nor duties imposed on others.

Given this understanding of the nature and source of rights, we can now ask: Is an embryo or fetus a person with a right to life, like an infant? No. To see why not, we must compare its basic nature and situation as it develops through pregnancy to that of a born infant.<sup>222</sup>

From the moment of fertilization to its implantation in the womb a few days later, the zygote consists of a few largely undifferentiated cells. It is invisible to the naked eye. It has no human organs, and no human form. It has no brain, and so no capacity for awareness or emotions. It is far more similar to a few skin cells than an infant. Moreover, the zygote cannot develop into a baby on its own: its survival beyond a few days requires successful implantation in the lining of the woman’s uterus. If it fails to do that, it will be flushed from her body without anyone ever knowing of its existence.

If the embryo matures normally after implanting into the lining of the uterus, it gradually develops primitive organs. Yet its form is not distinctively human in the early stages: it looks very similar to the embryo of other species.<sup>223</sup> As it develops its distinctive human form, the fetus remains wholly dependent on the woman for its survival. Even with the most advanced medical technology, many fetuses born in the 22nd to 25th week of pregnancy will die, and many of those that survive will suffer from “some degree of life long disability, ranging from minor hearing loss to blindness, to cerebral palsy, to profound intellectual disability.”<sup>224</sup> So before viability, the fetus is not capable of an existence independent of the pregnant woman.

After 26 weeks, when the fetus would be viable outside the womb, its organs continue to mature in ways critical to its survival and well-being after birth. It is aware, but that awareness is limited to the world inside the womb, apart from muffled sounds and dim lights. Most importantly, however, so long as the fetus remains within the woman, it is wholly dependent on her for its basic life-functions.



It goes where she goes, eats what she eats, and breathes what she breathes. It lives as she lives, as an extension of her body. It does not interact with the outside world in any significant way. It is wholly contained within and dependent on her for its survival. So if the woman dies, the fetus will die too unless delivered quickly. The same is true if the fetus's life-line to her body is disrupted, such as when the umbilical cord forms a tight knot.<sup>225</sup> A fetus cannot act independently to sustain its life, not even on the basic biological level possible to a day-old infant. It is thoroughly and solely dependent on the woman in which it lives.

Birth is a radical biological and existential change for the fetus, more significant than any other change over the whole course of life, except death.<sup>226</sup> A newborn baby lives his own life, outside his mother. Although still very needy, he maintains his own biological functions. He breathes his own air, digests his own food, and moves on his own. His mind, although in its nascent stages of development, now enables him to grasp the world and guide his actions. He interacts with other people as a whole and distinct creature in his own right, not merely as a part of a pregnant woman. He can leave his mother, either temporarily or permanently, to be cared for by someone else. The newborn infant is no longer a dependent being encased in and supported by the body of another; he is a person in his own right, living in a social context.

These stark differences explain why rights apply to the born infant, but not to the embryo or fetus. As long as the embryo or fetus resides in the womb, it is not living its own life, it is not an individual, it is not a rational being, and it does not exist in a social context. As such, it is not a person with the right to life; it is only a potential person. Rights, in other words, cannot be applied until birth. Let us see why not in greater detail.

First, the utter biological dependence of the zygote, embryo, and fetus on the pregnant woman shows that, until birth, it is not yet living its own life, but rather partaking in the life of the woman. It exists as part of the pregnant woman, not as an individual in its own right. Yet rights pertain only to individuals, not parts thereof. Such is the case, even when the fetus would be viable outside the womb. Even then, it is only a potential individual, not an actual one. The fetus only becomes an actual individual when birth separates it from the woman's body. Until then, it cannot be a person with a right to life. The pregnant woman, in contrast, is always an individual with full rights.

Second, the zygote, embryo, or fetus does not exist in a social context until birth. Due to its enclosure within the body of the pregnant woman, the new life cannot interact with other people: it experiences only muffled sounds and indirect pressure through the woman. It cannot be touched or handled, nor can it even engage in the primitive communication possible to infants. Even the pregnant woman cannot directly interact with her fetus, as she will do with her newborn infant. In essence, a pregnant woman serves as a biological host to the life inside her, not as a mother. A woman, in contrast, lives in society whether pregnant or not—and her rights are therefore absolute and inalienable.

**The differences between the life of  
a fetus and that of a born infant  
show that rights cannot be applied  
before birth. Until birth, the fetus is  
merely a potential person.**

Given these facts, to ascribe any rights to the zygote, embryo, or fetus before birth is a profound error. It is not a person—or rather, it is only a potential person, not an actual person. To suppose that mere potentiality is sufficient is to commit the fallacy of the continuum. The fact that a zygote may develop into a born infant does not prove the zygote to be the same thing as a born infant—any more than an acorn is an oak tree or a caterpillar is a butterfly. As philosopher Leonard Peikoff observes, treating a zygote—a potential person—as though it were an actual person makes no more sense than treating an adult human—a potential corpse—as though he were an actual corpse.<sup>227</sup>

The conclusion that rights begin at birth is confirmed by the serious conflict between any rights ascribed to the embryo or fetus before birth with the rights of the pregnant woman.

The pregnant woman's most fundamental right—her right to life—is not merely a bar against murdering her. Her right to life encompasses all the actions that she deems

necessary to promote her flourishing and happiness, provided that she does not initiate the use of force against others (and hence violate their rights). Her right to life protects her capacity to act by her own rational judgment, in pursuit of her own self-interest—and such is the very purpose of rights.

The advocates of “personhood” deny the pregnant woman’s right to life in asserting rights for the embryo and fetus. *Abort73.com*, for example, frames the issue in terms of competing rights:

Politically speaking, abortion is an issue that involves competing rights. On the one hand, you have the mother’s right not to be pregnant. On the other hand, you have the baby’s right not to be killed. The question that must be answered is this. Which right is more fundamental? Which right has a greater claim? Abortion advocates argue that outlawing abortion would, in essence, elevate the rights of the unborn over and above those of the mother. “How can you make a fetus more important than a grown woman?”, they might ask. In reality, outlawing abortion wouldn’t be giving unborn children more rights, it would simply gain for them the one most fundamental right that no one can live without, the right to life.<sup>228</sup>

This analysis is utterly wrong. Rights are trumps: they identify the scope and limits of each person’s freedom of action in society. To assert conflicts between rights is to confess that one’s theory of rights contradicts itself, and a self-contradictory theory of rights cannot be true.

Yet that analysis by *Abort73.com* is correct, in one sense. By the very nature of pregnancy, any rights ascribed to the embryo or fetus would conflict with the rights of the mother to her own body. Since pregnant women are clearly persons with full rights, that fact only confirms that embryos and fetuses are not persons with rights. Moreover, *Abort73.com* acknowledges (to some extent) that pregnant women would be obliged to sacrifice themselves to provide life support to the embryo and fetus: “If a baby is not to be aborted, then the pregnant mother must remain pregnant. This will also require of her sickness, fatigue, reduced mobility, an enlarged body, and a new wardrobe. Fortunately, it is not a permanent condition.”<sup>229</sup> Yet that demand for forced sacrifice contradicts the very nature and purpose of rights. How so?

Rights enable people to flourish by ensuring that they interact by peaceful, voluntary, and mutually beneficial

trade—rather than violence, theft, and fraud. In particular, the right to life guarantees one’s own freedom of action in pursuit of one’s life: it is not a duty imposed on others to preserve one’s life. The responsibility of care for another can only be acquired by the voluntary consent of the care-giver, such as when a man takes a friend out to sea on his boat for a week or when parents take an infant home from the hospital rather than abandoning it under a “Safe Haven Law.”<sup>230</sup> However, to grant rights to the embryo and fetus would be to impose such an unjust duty on pregnant women. Regardless of her own plans for her life, every pregnant woman would be obliged to provide life support to the embryo and fetus, perhaps at great personal cost to herself and her family. That’s not freedom; it is slavery.

**That rights cannot begin before birth  
is confirmed by the fact that any  
rights granted to the embryo or fetus  
would conflict with the right to life  
of the pregnant woman.**

Significantly, the inalienable right of the pregnant woman to her own life—and hence, to her own body—confirms that even a viable fetus cannot be properly regarded as a person with rights. Undoubtedly, for a pregnant woman to seek to abort a healthy, viable fetus without some overriding concern (such as her own health) would be a bizarre and possibly vicious act, e.g., if done to spite the father or due to evasion of the pregnancy for months. Yet the fact remains that even when a woman is deeply committed to her pregnancy, serious conflicts can arise between her welfare and that of the fetus, such as when receiving emergency medical treatment during childbirth or after a car accident. Due to such cases, the law must reflect the fact that the woman has an absolute right to make her own choices about her body. The potential for such conflicts only ends once the fetus is born, when the woman and baby become—and can be treated as—fully separate individuals.

Of course, when a woman wants to bear a child, she will value her fetus tremendously. She will do all she can to ensure the birth of a healthy baby, protecting it from

myriad harms. Moreover, she has every right to expect that the police and courts will protect her and her fetus from criminal assault and negligence. Indeed, the law should severely punish criminals who intentionally or negligently harm a woman and her fetus. However, the only rational basis for such laws is the woman's rights to her own body—coupled with a recognition of the value she places on her fetus—not any supposed “rights” wrongly attributed to the fetus. Just as the fetus depends on the woman's body for its survival, so it depends on the woman's rights for its legal protections.

In sum, the fundamental biological differences between a zygote, embryo, or fetus versus an infant show that a woman should have every legal right to terminate an unwanted pregnancy—for any reason. The pregnant woman is a human person with the inalienable rights to life, liberty, and the pursuit of happiness. So is an infant. However, neither a zygote, nor an embryo, nor a fetus is a person. It has no right to life support from the pregnant woman. For the state to force a woman to provide such life support under penalty of law would be a gross violation of her rights. Yet that's precisely what “personhood” measures would demand—based on the irrational fantasy that a zygote has the same moral and legal standing as an infant.

## The Morality of Abortion

In addition to the political debates about abortion rights, many people condemn abortion on moral grounds as an evasion of responsibility for the known consequences of sexual intercourse. In fact, however, the termination of a healthy pregnancy can be—and usually is—a morally responsible choice.

Most people do not object to abortions in cases involving rape, incest, deformity, or risk to the woman's life. Yet they question or even condemn abortions obtained for seemingly less weighty reasons, such as financial hardship, the demands of career or school, problems in the romantic relationship, or not wanting another child. Moreover, when birth control was not used—or used carelessly—people may condemn the abortion as particularly irresponsible. Undoubtedly, these moral objections to abortion stem from implicitly regarding the embryo or fetus as a person, at least in part. People often suppose that the interests of the embryo or fetus should be weighed against the interests of the pregnant woman, such that the termination of a healthy pregnancy cannot be morally justified. In the face of these views, we should

ask: Is abortion a morally proper choice simply because the pregnancy and resulting child is unwanted? If so, why?

People should not allow themselves to be buffeted through life by accidental circumstances, for to do so is to court disaster and misery. Instead, people ought to consciously direct the course of their lives by their own rational judgment and long-range planning. With respect to procreation, a woman and her partner ought not bear a child just because she happens to become pregnant. Instead, they ought to consider the impact of the pregnancy and resulting child on their health, finances, careers, and overall well-being. They ought to consider whether their relationship is stable enough to withstand the strain of raising a child. They ought to have a child only if they are willing and able to be good parents.

As Ayn Rand wrote in her essay “Of Living Death,” in defending the morality of abortion:

The capacity to procreate is merely a potential which man is not obligated to actualize. The choice to have children or not is morally optional. Nature endows man with a variety of potentials—and it is his mind that must decide which capacities he chooses to exercise, according to his own hierarchy of rational goals and values. ...

It is only animals that have to adapt themselves to their physical background and to the biological functions of their bodies. Man adapts his physical background and the use of his biological faculties to himself—to his own needs and values. That is his distinction from all other living species.

To an animal, the rearing of its young is a matter of temporary cycles. To man, it is a lifelong responsibility—a grave responsibility that must not be undertaken causelessly, thoughtlessly, or accidentally.<sup>231</sup>

A couple seeking to live fully rational, purposeful, and hence human lives must decide for themselves whether and when to have children, based on their interests, capacities, and circumstances. To fail to do that—to assume the enormous responsibility of a child simply due to the accident of pregnancy—would be self-destructive. As such, and given that neither the embryo nor the fetus is a person with a right to life, abortion can be a moral choice.

Speaking generally, so long as a woman decides to terminate an unwanted pregnancy based on a realistic and

sober assessment of her options, and she does so relatively early in the pregnancy, the choice of abortion is a perfectly moral response to an unwelcome but healthy pregnancy. Of course, opponents of abortion will here object that a moral person does not solve her problems by harming or killing innocent third parties, even if such is legal. While that principle is correct, the application of it early-stage abortion is deeply misguided.

As we have argued, the embryo or fetus is not a person with rights at any time during pregnancy, and on that basis alone abortion should be legal at the discretion of the pregnant woman, whatever her reasons. Morally speaking, however, we can (and should) say more. A healthy fetus viable outside the womb is on the verge of becoming an independent human person, and as such, it surely warrants substantial moral consideration. To terminate such a pregnancy without good cause (such as serious health problems) would be senseless and wrong. However, the moral status of the embryo or fetus in the earlier stages of a healthy pregnancy is quite different.

For an organism to warrant moral consideration in the sense that its interests ought to be consulted to some extent, that organism must be more than merely alive. The organism must have the capacity (at least latently) for consciousness—particularly, the capacity for perception of the world and movement in it. By that standard, an embryo or fetus only begins to warrant moral consideration of its interests around the middle of the second trimester, when the nervous system has developed sufficiently for some movement and perception. Until that point, the embryo or fetus's brain and nervous system are developing but not functional. *What to Expect* reports that primitive perception begins around 16 weeks, the brain begins to regulate the heartbeat at 17 weeks, significant movement begins at 18 weeks, and the senses start to function in earnest at 22 weeks.<sup>232</sup> Until the pregnancy passes at least some of these milestones, a woman is entitled to terminate that pregnancy after consulting only her own interests. She has no duty or other obligation to the new life growing inside her, not when that life is merely developing tissue with only the potential to become a human person. Even after passing those milestones, the pregnant woman might reasonably choose to terminate her pregnancy for weighty reasons, such as abnormalities in the fetus or her own health problems.

These same basic considerations apply when irresponsible sex caused the pregnancy. Unfortunately, such is common. One study found that, during the month in which an

unintended pregnancy commenced, just 5 percent of women used birth control consistently, while 41 percent used birth control inconsistently and 54 percent weren't using any birth control at all.<sup>233</sup> In the case of inconsistent use, that pregnancy occurred is not surprising given the dramatic differences in effectiveness between “perfect use” and “typical use” of birth-control methods.<sup>234</sup>

Couples who cannot be bothered to use birth control or who use it carelessly, then terminate the resulting pregnancy by abortion, deserve some blame. Yet the moral wrong in such cases is not the choice of abortion. If an unwanted pregnancy was caused by irresponsible behavior, then that behavior ought to be morally blamed, not any ensuing abortion. (Similarly, if a skier breaks his leg by skiing too fast in dangerous terrain, we ought to blame him for that skiing, not for his sensible choice to restore his leg to health by surgery.) In the future, the couple ought to resolve to always use birth control properly, in order to avoid the distress, expense, and risks of another unwanted pregnancy. Yet they should feel no guilt for the abortion, if that best served their interests—but only for engaging in irresponsible sex.

**The termination of an early-stage healthy pregnancy can be and often is a moral choice, even if that pregnancy was caused by irresponsible, unprotected sex.**

Moreover, to the degree that a couple's irresponsible use of birth control indicates habits of irresponsibility, to demand that the couple forego abortion as a matter of moral duty would itself be terribly irresponsible. Such a couple would likely be ill-prepared for the immense burdens of parenthood, and a child should never be inflicted as any kind of lesson or punishment for the irresponsible sexual actions of its parents. That would be monstrous for the parents, as well as for the child.

Opponents of abortion often present adoption as the moral alternative to abortion for an unwanted pregnancy. Yet adoption is not a viable option for many couples, often for good reasons. To carry any pregnancy to term itself



involves some risk, as well as time, effort, and endurance. For some women, that burden might be too great. Moreover, putting up a child for adoption can involve severe and enduring emotional costs, precisely because the born infant to be bestowed on strangers is a person—and one's own child. That is not true of the embryo or fetus destroyed in the termination of an early-stage pregnancy.

Opponents of abortion also claim that couples can protect themselves against unwanted pregnancy by refraining from sex entirely. However, sex is a magnificent human value integral to any healthy, developed romantic relationship. To advocate this course is to demand that a woman and her partner choose between abstinence and procreation. That is morally wrong: it is not a choice that couples in a modern society should be obliged to make.

In sum, anti-abortion activists often gather support for their cause by associating abortions with promiscuous, irresponsible sex and other self-destructive behaviors. However, women often become pregnant unexpectedly through no fault of their own. In other cases, the error was not the abortion but the irresponsible sex. Whatever the cause of the pregnancy, the embryo or fetus is not a person whose interests must be balanced against those of the woman. So a couple faced with an unintended pregnancy ought to focus the impact of bearing a child on their own lives, as well as the kind of life they could offer that born child. In many cases, an early-stage abortion might be not just a moral option, but the best possible choice too.

## The “Personhood” Movement Versus the Separation of Church and State

To the world at large, advocates of “personhood” might seem to be little more than unusually devoted and consistent opponents of abortion. They might seem to be motivated by a commitment to scientific fact and inalienable rights. Yet in fact, they are religious zealots seeking to impose the tenets of their faith by force of law. Consequently, any “personhood” measure, in addition to the other harms it threatens to unleash, would violate the proper separation of church and state.

“Personhood” advocates do not conceal or disguise their religious agenda. Rather, they proclaim it, loudly and persistently. Consider a few representative claims.

Kristi Burton, the public face of Amendment 48 in the 2008 campaign, explained her reason for fighting to ban abortion: “It just came to me. I prayed about it and knew God was calling me to do it.”<sup>235</sup>

In its 2010 campaign, Personhood Colorado portrayed the political battle over Amendment 62 in deeply religious terms:

Now the Church must unite and act boldly for the child in the womb. Amendment 62 needs men and women of faith to promote the culture of life in our churches by organizing campaigning events and prayer teams.

In 2008, an unprecedented number of churches awoke from their slumber to put the Personhood Amendment on the ballot. This year, we are on the ballot and need to reach out to even more churches so that we may continue to educate and advocate for the preborn child.

Personhood is a Spiritual Battle. The secular world and their false gods have no reason to protect the preborn child. However, with the power of God's promises, and the loving support of His people, all of the lies and scare tactics used by the secular world will be defeated.

God's word is clear. The only real question is, will we be faithful? ... There are a number of resources available for you to use in your churches. One is a letter by the Alliance Defense Fund, a national Christian law firm, assuring pastors of the legality of working on a constitutional amendment vis-a-vis their non-profit status. ...

The most important aspect of our outreach to the churches is 1) to have God's people praying for the preborn child and for this campaign, and 2) to have God's people work to get Amendment 62 [passed].<sup>236</sup>

Colorado Right to Life states that “every human being has a God-given right to life from the beginning of that person's biological development through natural death, regardless of their perceived value to society.” That position is the result of its commitment to “never compromise on God's enduring command, ‘Do not murder.’”<sup>237</sup> The organization's website includes a page titled “The Bible and Abortion” to highlight various Biblical passages deemed supportive of “personhood.”<sup>238</sup>

Similar sectarian Christian underpinnings are found in the “personhood” groups outside Colorado, as well as national “personhood” organizations.

The “About” web page for Personhood Florida begins and ends with Bible passages. The organization declares:

God is the author of human rights—mine, yours—every human being from their very beginning. First among these on which all others stand is our right to be recognized as persons—as children of God, made in His image and likeness. As the hands and feet of Christ it is up to us to safeguard this most fundamental of these rights—human personhood.<sup>239</sup>

Personhood Mississippi describes itself as a “grass roots Christian ministry... committed to see all human beings, uniquely created in God’s image recognized as legal persons, protected from killing and abuse, and treated with dignity, respect and love.” They explain:

We believe that each and every human life has intrinsic value because and seek to see the two great commands—love Christ and love our neighbors—become a reality in our culture and legal system.<sup>240</sup>

Personhood USA describes itself as a “Christian ministry that welcomes those who believe in the God-given right to life.” Its stated mission is to “glorify Jesus Christ in a way that creates a culture of life so that all innocent human lives are protected by love and by law.”<sup>241</sup>

The National Personhood Alliance describes itself as “a Christ-centered, biblically informed organization dedicated to the non-violent advancement of the recognition and protection of the God-given, inalienable right to life of all innocent human beings as legal persons at every stage of their biological development.” Its website declares:

WHEREAS, the Bible affirms the personhood, sanctity, dignity and value of every human being from the moment of our individual creation, as evidenced by the doctrine of Imago Dei and through the marital union of a man and woman (Gen 1:26-28), our being known by God even before being formed in the womb (Jer 1:5), the incarnation of Christ (Luke 1-2), and the sacrifice of Christ to atone for the sins of humanity and restore fellowship between God and man (Rom. 5:12-21);

THEREFORE, [National Personhood Alliance] affirms that we will uphold the biblical doctrine of the sanctity of human life as the primary objective of our organization...<sup>242</sup>

Another page on its website proclaims three “laws of personhood,” where the first two are explicitly based on God’s will, as revealed through Judeo-Christian scripture:

Law 1: A person is a living physical/spiritual being created in the image of God, male and female, from their earliest biological beginning until natural death.

In a Judeo-Christian worldview the human being as such is afforded a special status and dignity on account of being created in the image of God: “So God created man in His own image, in the image of God He created him; male and female He created them.” (Gn 1:27) ...Because we bear the image of God, all mankind, and, by extension, each and every human life has a “specialness” and worth that demands respect.

And:

Law 2: A person’s right to life is inalienable regardless of age, race, sex, genetic pre-disposition, condition of dependency or biological development.

Genesis 2:7 (ESV) “...then the Lord God formed the man of dust from the ground and breathed into his nostrils the breath of life, and the man became a living creature.” The right to life is inalienable because it originates with God.<sup>243</sup>

Abort73.com, a website often cited by “personhood” advocates, is a project of Loxafamosity Ministries. “Motivated by our Christian calling,” the organization works to “establish justice” and “expose evil injustices” in accordance with its religious views. The organization’s seven-point statement of religious faith, which discusses among other things the Christian’s need to evangelize, concludes with a call to recognize the “social implications” of the “announcement of the gospel of Jesus,” which the group holds to include the policy goal of totally banning abortion.<sup>244</sup>

Such proclamations of deeply religious motives are representative of the “personhood” movement and pervasive within it. “Personhood” activists leave no doubt that their political agenda is fundamentally motivated by religious faith, particularly a strain of Christian faith.

Undoubtedly, “personhood” advocates offer a secular argument to supplement their appeals to God’s will—as seen in a prior section. Yet even that argument is fundamentally religious, in that the logical leap from the human biology of the embryo and fetus to its personhood requires an assumption of God’s gift of rights at conception. That secular argument is mere veneer for the thoroughly religious worldview that animates the calls for “personhood.”

In fact, American Right to Life, “The Personhood Wing of the Pro-Life Movement,” explicitly warns against appealing to science rather than focusing on basic religious dogmas:

Don’t make excuses for Planned Parenthood murdering countless children by saying, “Now that we have 4D ultrasound, we know that this is a baby.” Long before ultrasound, the mutilated body of the first aborted child, and the millions since, testified to the wickedness of child killing. 3,500 years ago the Mosaic Law in the Hebrew Scriptures recognized the unborn child as a person...<sup>245</sup>

Evidently, even “personhood” advocates don’t take their own secular arguments very seriously—and no wonder, since they’re so simplistic and fallacious.

In all likelihood, “personhood” advocates resort to secular claims only to appeal to mainstream voters, and perhaps to ward off future legal challenges. In that respect, they resemble the Christians promoting creationism under the pseudo-scientific banner of “intelligent design.”

Ultimately, we should take “personhood” advocates at their word: they seek to impose God’s law on America. They want to force all Americans, whatever their religious beliefs, to conform to the particular dictates of their particular faith. They wish to make a very specific and sectarian Christian doctrine the binding law for all Americans, including dissenting Christians, Jews, Muslims, Buddhists, Hindus, agnostics, atheists, and others. As such, Amendment 67 and other “personhood” measures must be regarded as prime examples of faith-based politics—or worse, outright theocracy. They violate the separation of church and state—and that’s an additional reason to reject them.

Despite the frequent claims from the religious right that America was founded as a “Christian nation,” the U.S. Constitution is a thoroughly secular document, referring to religion only to forbid any mingling of faith and politics. Most importantly, the First Amendment states, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...”

In his 1802 letter to the Danbury Baptists, Thomas Jefferson expounded the significance of this fundamental law:

Believing with you that religion is a matter which lies solely between Man and his God, that he owes account to none other for his faith or his worship,

that the legitimate powers of government reach actions only, and not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should “make no law respecting an establishment of religion, or prohibiting the free exercise thereof,” thus building a wall of separation between Church and State.<sup>246</sup>

What does that analogy of a “wall of separation” imply about the relationship between church and state? As philosopher Onkar Ghate argues, its original and proper meaning is two-fold. First, the state ought not use its powers of coercion to shape people’s religious beliefs or practices, such as by requiring people to worship Allah or attend church. Instead, the state must only consider whether people’s actions, regardless of any religious motivation, violate the rights of others. So the state should intervene to stop men from beating their wives, whether sanctioned by religious scripture or not. And it should allow people to celebrate holidays of their choosing, whether religious or not. Second, churches cannot be permitted to harness the power of the state to promote or enforce their preferred religious beliefs and practices, such as when clergy act as television censors or receive special tax refunds. Instead, churches must respect the rights of others, using only persuasion to motivate belief.<sup>247</sup>

**Advocates of “personhood”  
are religious zealots seeking to  
impose the tenets of their faith by  
force of law. Consequently, any  
“personhood” measure would violate  
the separation of church and state.**

In essence, a proper government cannot give any more or less weight to certain beliefs just because they are religious in nature. The government must allow people freedom of conscience—including the freedom to act on their beliefs, however wrong or even absurd—provided that they do not violate the rights of others in the process. Yet the government itself must act solely based on rationally provable facts about man’s nature, including secular

principles of individual rights—not based on any claims of religious faith. Such is the true meaning of a separation of church and state.<sup>248</sup>

Despite some secular veneer, “personhood” advocates aim to force Americans to comply with their notion of divine law. As we have seen, they proclaim that purpose, loudly and clearly. As such, they seek to violate every American’s freedom of religion and freedom of conscience.

Of course, “personhood” activists have every right to attempt to persuade others to follow divine law, as they see it. They have every right to condemn abortion on religious grounds—and attempt to persuade pregnant women not to abort. However, to impose their views by force—whether as vigilantes or political activists—constitutes a grave violation of rights.

To summarize, due to their inherently religious motivation and justification, “personhood” measures violate the separation of church and state—and thereby threaten the very foundations of our freedom. A just and proper government must determine the rights involved in pregnancy on the basis of empirical facts, informed by an objective theory of rights. It must recognize and protect the rights of actual persons, not invent rights for merely potential persons. It must uphold the rights of pregnant women to terminate their pregnancies at any time, for any reason.

### **Amendment 67 Is Not a “Message”**

Ironically, the fact that Amendment 67 is so outrageous in its implications may cause some Colorado voters to not take it seriously. Many voters may be tempted to think: “surely they don’t really want to ban abortions even in cases of rape, incest, deformity, or risks to the health of the mother; surely they don’t want to risk the lives and health of women for non-viable ectopic pregnancies; surely they don’t really want lengthy prison sentences or even the death penalty for women who get abortions; surely they don’t seriously want to outlaw the birth control pill; surely they don’t want to shut down fertility clinics; surely not... they just want to protect pregnant women and unborn children, that’s all.” But the most consistent advocates of Amendment 67 do intend those effects—and they will strive to use “personhood” laws to make them the law of the land.

The religious right typically packages the issue of abortion with a variety of other cultural issues, such as relativism, postmodernism, promiscuous sex, violent

video games, and pornography. They claim that voting for “personhood” laws will send the “message” that “all human life has value.”<sup>249</sup> Dan Maes, the Republican candidate for governor of Colorado in 2010, endorsed Amendment 62 but then stated, “People are overestimating the personhood amendment. It simply defines life as beginning at conception. That’s it. Who knows what the intent of it is? They are simply making a statement. That is all I see it as. Do they have another agenda? I don’t know.”<sup>250</sup>

Yet Amendment 67, like Amendments 48 and 62, is not merely a “message” or a “statement.” It does not say, “Resolved: All human life has value.” Nor does it say, “Resolved: Life begins at conception.” (Nobody doubts that a zygote is alive.) Rather, Amendment 67 is a specific measure with specific, foreseeable political implications. A vote for it is a vote for those sweeping political changes. It is a vote for granting full legal rights to the “unborn” from the moment of fertilization—at the expense of the real men and women of Colorado.

As this paper has shown, Amendment 67 and comparable proposals would fundamentally change Colorado law. If *Roe v. Wade* were reversed, the consistent enforcement of the measure would outlaw abortion in all cases except perhaps for extreme and immediate risk to the woman’s life, outlaw popular forms of birth control, outlaw all embryonic stem cell research and the most common in vitro fertilization techniques, and impose severe police and prosecutorial control over the sexual lives of most couples. Not only would it cause some women to suffer and die needlessly, but it would also violate the rights of many actual persons and prevent them from making the best choices for their lives.

In its essence, Amendment 67 is profoundly anti-life.

Some who endorse Amendment 67 hope that Colorado voters will overlook the real and frightening implications of the measure, and instead vote based on their disapproval of irresponsible sex and their affection for cuddly babies. Yet in this case, an irresponsible vote would be worse than irresponsible sex. The way to change the culture in the direction of greater responsibility and stronger moral values is not to pass a law that would endanger women, foster a police state, foist parenthood on unwilling couples, and severely violate the rights of millions of actual people.

If you believe that “human life has value,” the only moral choice is to vote against Amendment 67.



## Notes

Note: All web links were verified as of October 2014 unless otherwise noted.

- 1 “2012-3 #5, Definition of Person and Child, Final Text,” Colorado Secretary of State, <http://www.sos.state.co.us/pubs/elections/Initiatives/titleBoard/filings/2013-2014/5Final.pdf>.
- 2 *Ibid.*
- 3 “Roe v. Wade,” United States Supreme Court, 410 U.S. 113, January 22, 1973, FindLaw, <http://laws.findlaw.com/us/410/113.html>.
- 4 “Declaration on Procured Abortion,” Vatican, June 28, 1974, [http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_19741118\\_declaration-abortion\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19741118_declaration-abortion_en.html).
- 5 Leslie Reagan, *When Abortion Was a Crime* (University of California Press, 1997), p. 7.
- 6 “George W. Bush on Abortion,” On the Issues, [http://www.ontheissues.org/George\\_W\\_\\_Bush\\_Abortion.htm](http://www.ontheissues.org/George_W__Bush_Abortion.htm); “John McCain on Abortion,” On the Issues, [http://www.ontheissues.org/senate/john\\_Mccain\\_abortion.htm](http://www.ontheissues.org/senate/john_Mccain_abortion.htm).
- 7 Jeremy W. Peters, “Romney Clarifies Abortion Stance,” *New York Times*, October 18, 2012, <http://www.nytimes.com/2012/10/18/us/politics/romney-clarifies-abortion-stance.html>.
- 8 Pope Paul VI, *Humanae Vitae*, Vatican, July 25, 1968, [http://www.vatican.va/holy\\_father/paul\\_vi/encyclicals/documents/hf\\_p-vi\\_enc\\_25071968\\_humanae-vitae\\_en.html](http://www.vatican.va/holy_father/paul_vi/encyclicals/documents/hf_p-vi_enc_25071968_humanae-vitae_en.html).
- 9 “The Bible and Abortion,” Colorado Right to Life, <http://ColoradoRTL.org/Bible>.
- 10 “Welcome to Personhood USA: What Is Personhood?,” Personhood USA, <http://www.personhoodusa.com/about-us/what-is-personhood/>.
- 11 “John McCain’s Tragic Pro-Abortion Record,” American Right to Life Action, October 12, 2008, <http://artlaction.com/release/20081012/john-mccains-tragic-pro-abortion-record>.
- 12 Frank Lambert, *Religion In American Politics: A Short History* (Princeton University Press, 2008), p. 189–190.
- 13 “Our Mission,” Personhood USA, <http://www.personhoodusa.com/about-us/our-mission/>.
- 14 “About Us,” Personhood USA, <http://www.personhoodusa.com/about-us/>.
- 15 The text of the next few paragraphs is largely drawn (with permission) from Ari Armstrong’s and Diana Hsieh’s article “The Assault on Abortion Rights Undermines All Our Liberties,” *The Objective Standard*, Winter 2011, <https://www.theobjectivestandard.com/issues/2011-winter/abortion-rights/>.
- 16 Craig Robinson, “Bachmann on Late Term Abortion,” *Iowa Republican*, October 17, 2011, <http://theiowarepublican.com/2011/bachmann-on-late-term-abortion-bans-%E2%80%9Cthat%E2%80%99s-a-state-issue%E2%80%9D/>.
- 17 Heather D. Boonstra and Elizabeth Nash, “A Surge of State Abortion Restrictions Puts Providers—and the Women They Serve—in the Crosshairs,” Guttmacher Institute, Winter 2014, vol. 17, no. 1, <http://www.guttmacher.org/pubs/gpr/17/1/gpr170109.html>.
- 18 “Counseling and Waiting Periods for Abortion,” Guttmacher Institute, October 1, 2011, [http://www.guttmacher.org/statecenter/spibs/spib\\_MWPA.pdf](http://www.guttmacher.org/statecenter/spibs/spib_MWPA.pdf).
- 19 Maria La Ganga, “Most abortion clinics in Texas will be forced to close under federal court ruling,” *Los Angeles Times*, October 2, 2014, <http://www.latimes.com/nation/la-na-texas-abortion-20141002-story.html>.
- 20 “Statement of Values,” Colorado Right to Life, <http://coloradortl.org/about-us>.
- 21 *Ibid.*
- 22 “Life Counts,” Colorado for Equal Rights, [http://web.archive.org/web/20080627122955/http://www.coloradoforequalrights.com/files/cer\\_info\\_sheet.pdf](http://web.archive.org/web/20080627122955/http://www.coloradoforequalrights.com/files/cer_info_sheet.pdf). For a more extended version of the argument, see “Personhood,” Pro-Life Wisconsin, <http://www.prolifewisconsin.org/proLifeIssues.asp?article=Personhood+%26+the+Roe+v.+Wade+Decision&aid=274&id=7> and “About Personhood,” The Personhood Initiative, <http://www.personhoodinitiative.com/about-personhood.html>. For a rebuttal of the argument, see Clark Forsythe, “The Blackmun Myth,” *National Review*, September 16, 2009, <http://www.nationalreview.com/articles/228252/blackmun-myth/clarke-d-forsythe>.
- 23 Peter J. Smith, “Historic Chance to Defeat Roe v. Wade on the Ballot in Colorado,” *LifeSiteNews*, May 30, 2008, <https://www.lifesitenews.com/news/historic-chance-to-defeat-roe-v-wade-on-the-ballot-in-colorado>.

- 24 “CRTL 2008 Candidate Questionnaire,” Colorado Right to Life, <http://www.coloradorighttolife.org/news/2008/04/crtl-2008-candidate-questionnaire>.
- 25 Chelsea Schilling, “Personhood’ Movement Explodes in 32 States,” *World Net Daily*, October 31, 2009, <http://www.wnd.com/2009/10/114423/>.
- 26 “2010 Election Candidate Questionnaire,” Northern Kentucky Right to Life, <http://c0469351.cdn.cloudfiles.rackspacecloud.com/NKRTLPAcendorsementsAPR2010.pdf>. See also Ari Armstrong, “Rand Paul Wants Total Abortion Bans,” *AriArmstrong.com*, May 26, 2010, <http://ariarmstrong.com/2010/05/rand-paul-wants-total-abortion-bans/>.
- 27 “Counseling and Waiting Periods for Abortion,” Guttmacher Institute, October 1, 2014, [http://www.guttmacher.org/statecenter/spibs/spib\\_MWPA.pdf](http://www.guttmacher.org/statecenter/spibs/spib_MWPA.pdf).
- 28 “Colorado Definition of Person, Initiative 48 (2008),” *Ballotpedia*, [http://ballotpedia.org/Colorado\\_Definition\\_of\\_Person,\\_Initiative\\_48\\_\(2008\)](http://ballotpedia.org/Colorado_Definition_of_Person,_Initiative_48_(2008)).
- 29 *Ibid.*
- 30 Robin Abcarian, “A New Push to Define ‘Person,’ and to Outlaw Abortion in the Process,” *Los Angeles Times*, September 28, 2009, <http://articles.latimes.com/2009/sep/28/nation/na-embryos-personhood28>.
- 31 “Colorado Fetal Personhood, Initiative 62 (2010),” *Ballotpedia*, [http://ballotpedia.org/Colorado\\_Fetal\\_Personhood,\\_Initiative\\_62\\_\(2010\)](http://ballotpedia.org/Colorado_Fetal_Personhood,_Initiative_62_(2010)).
- 32 Ed Quillen, “Colorado’s Zygote Zealots,” *Denver Post*, August 8, 2010, [http://www.denverpost.com/opinion/ci\\_15688524](http://www.denverpost.com/opinion/ci_15688524).
- 33 “Colorado Personhood Amendment, Amendment 62 (2012),” *Ballotpedia*, [http://ballotpedia.org/Colorado\\_Personhood\\_Amendment,\\_Amendment\\_62\\_\(2012\)](http://ballotpedia.org/Colorado_Personhood_Amendment,_Amendment_62_(2012)).
- 34 “Results for Proposed Initiative #46,” Colorado Secretary of State, <http://www.sos.state.co.us/pubs/elections/Initiatives/titleBoard/results/2011-2012/46Results.html>.
- 35 Electa Draper, “Personhood amendment won’t make Colorado ballot in 2012,” *Denver Post*, September 12, 2012, [http://www.denverpost.com/ci\\_21521018/personhood-amendment-wont-make-colorado-ballot-2012](http://www.denverpost.com/ci_21521018/personhood-amendment-wont-make-colorado-ballot-2012).
- 36 “Personhood USA Marks 1st Anniversary; Announces Strategy for 2010...Personhood In Every State,” *Personhood USA*, November 5, 2009, <http://www.personhoodusa.com/press-release/personhood-usa-marks-1st-anniversary-announces-strategy-2010personhood-every-state>.
- 37 “Mississippi Life Begins at the Moment of Fertilization Amendment, Initiative 26 (2011),” *Ballotpedia*, [http://ballotpedia.org/Mississippi\\_Life\\_Begins\\_at\\_the\\_Moment\\_of\\_Fertilization\\_Initiative\\_\(2011\)](http://ballotpedia.org/Mississippi_Life_Begins_at_the_Moment_of_Fertilization_Initiative_(2011)).
- 38 Laura Bassett, “As Mississippi Debates Extreme ‘Personhood’ Amendment, Advocates Ask Where Are The Dems?” *Huffington Post*, September 23, 2011, [http://www.huffingtonpost.com/2011/09/23/mississippi-abortion-personhood\\_n\\_976872.html](http://www.huffingtonpost.com/2011/09/23/mississippi-abortion-personhood_n_976872.html).
- 39 “Missouri Personhood Amendment (2010),” *Ballotpedia*, [http://ballotpedia.org/Missouri\\_Personhood\\_Amendment\\_\(2010\)](http://ballotpedia.org/Missouri_Personhood_Amendment_(2010)); “Alaska “Natural Right to Life” Initiative (2014),” *Ballotpedia*, [http://ballotpedia.org/Alaska\\_Personhood\\_of\\_Unborn\\_Children\\_Act\\_\(2010\)](http://ballotpedia.org/Alaska_Personhood_of_Unborn_Children_Act_(2010)); “Nevada Personhood Amendment (2012),” *Ballotpedia*, [http://ballotpedia.org/Nevada\\_Personhood\\_Amendment\\_\(2012\)](http://ballotpedia.org/Nevada_Personhood_Amendment_(2012)); “Florida Personhood Amendment (2012),” *Ballotpedia*, [http://ballotpedia.org/Florida\\_Fetal\\_Personhood\\_Amendment\\_\(2010\)](http://ballotpedia.org/Florida_Fetal_Personhood_Amendment_(2010)); “Oklahoma “Personhood” Amendment (2012),” [http://ballotpedia.org/Oklahoma\\_%22Personhood%22\\_Amendment\\_\(2012\)](http://ballotpedia.org/Oklahoma_%22Personhood%22_Amendment_(2012)); “Montana Life Begins at Conception Initiative (2012),” [http://ballotpedia.org/Montana\\_Life\\_Begins\\_at\\_Conception\\_Initiative\\_\(2012\)](http://ballotpedia.org/Montana_Life_Begins_at_Conception_Initiative_(2012)).
- 40 “Missouri Group Launches Campaign for Personhood Rights of Pre-Born Babies,” *Personhood USA*, September 18, 2009, <http://www.personhoodusa.com/press-release/missouri-group-launches-campaign-for-personhood-rights-of-pre-born-babies/>.
- 41 “Personhood Amendment,” *Eagle Forum*, November 30, 2009, <http://www.eagleforum.org/topics/life/personhood.html>.
- 42 “Missouri Right to Life Statement on ‘Personhood’ Initiative Petition,” *Missouri Right to Life*, <http://www.missourilife.org/legislation/2009/personhood.html>.
- 43 Steven Ertelt, “Missouri Personhood Amendment on Abortion Fails to Qualify for November Ballot,” *LifeSiteNews*, May 4, 2010, <http://www.lifenews.com/2010/05/04/state-5064/>.
- 44 “Abortion Law to Take Effect Without Signing,” *Associated Press*, July 15, 2010, <http://www.columbiatribune.com/news/2010/jul/15/abortion-law-to-take-effect-without-signing/>. See also Tim Townsend, “New Mo. Abortion Law Counters Some Philosophy, Theology,” *StlToday.com*, August 22, 2010, [http://www.stltoday.com/lifestyles/faith-and-values/article\\_958b9f67-a92e-5a77-bc4d-ae780e73364c.html](http://www.stltoday.com/lifestyles/faith-and-values/article_958b9f67-a92e-5a77-bc4d-ae780e73364c.html).

- 45 “Missouri Victory for Women and Babies! SB 793 Becomes Law!”, Missouri Right to Life, July 15, 2010, <http://www.missourilife.org/news/2010/071510.html>; Personhood Missouri, <http://web.archive.org/web/20110209093348/http://www.personhoodmissouri.com/>.
- 46 Jim Galloway, “Morning Jolt: A Test of Clout for Georgia Right to Life,” *Atlanta Journal-Constitution*, July 22, 2010, <http://web.archive.org/web/20140423072120/http://blogs.ajc.com/political-insider-jim-galloway/2010/07/22/your-morning-jolt-a-test-of-clout-for-georgia-right-to-life/>; Georgia Voters Say YES on Personhood Amendment,” Georgia Right To Life, July 21, 2010, <http://www.grtl.org/?q=node/62>; “More than 45 Georgia counties will vote on an advisory personhood question,” Ballotpedia, [http://ballotpedia.org/More\\_than\\_45\\_Georgia\\_counties\\_will\\_vote\\_on\\_an\\_advisory\\_personhood\\_question](http://ballotpedia.org/More_than_45_Georgia_counties_will_vote_on_an_advisory_personhood_question).
- 47 Jim Galloway, “Morning Jolt: A Test of Clout for Georgia Right to Life,” *Atlanta Journal-Constitution*, July 22, 2010, <http://web.archive.org/web/20140423072120/http://blogs.ajc.com/political-insider-jim-galloway/2010/07/22/your-morning-jolt-a-test-of-clout-for-georgia-right-to-life/>.
- 48 “Coming To a Ballot Near You: When Does Life Begin?,” Georgia Right to Life, May 10, 2010, <http://www.grtl.org/docs/Press%20Release%20May%2010%20final.pdf>.
- 49 Aaron Gould Sheinin, “Handel concedes GOP nomination for governor to Deal,” *Atlanta Journal-Constitution*, August 11, 2010, [http://web.archive.org/web/20140914051120/http://blogs.ajc.com/georgia\\_elections\\_news/2010/08/11/breaking-news-handel-calls-deal-concedes-gop-nomination-for-governor/](http://web.archive.org/web/20140914051120/http://blogs.ajc.com/georgia_elections_news/2010/08/11/breaking-news-handel-calls-deal-concedes-gop-nomination-for-governor/); “Nathan Deal,” Ballotpedia, [http://ballotpedia.org/Nathan\\_Deal](http://ballotpedia.org/Nathan_Deal).
- 50 “‘Personhood’ Measures: Extreme and Dangerous Attempts to Ban Abortion,” NARAL Pro-Choice America, <http://www.prochoiceamerica.org/media/fact-sheets/abortion-personhood.pdf>.
- 51 “Put Personhood Amendments Aside to Defeat Obama, Stop Abortion,” RedState.com, <http://www.redstate.com/2010/12/21/put-personhood-amendments-aside-to-defeat-obama-stop-abortion/>.
- 52 “NHGOP adds ‘personhood,’ stronger anti-same sex marriage stand to platform,” *New Hampshire Journal*, <http://nhjournal.com/nhgop-strengthens-pro-life-anti-same-sex-marriage-stands-in-new-platform/>.
- 53 “CRTL 2008 Candidate Questionnaire,” Colorado Right to Life, <http://www.coloradorighttolife.org/news/2008/04/crtl-2008-candidate-questionnaire/>; “CRTL 2010 Candidate Questionnaire,” Colorado Right to Life, <http://www.coloradorighttolife.org/candidate-survey>.
- 54 Colorado Right to Life published PDF documents from the candidates in 2008 that the authors saved in their personal archives. Regarding Jeff Crank, see <http://www.jeffcrank.com/>.
- 55 “Colorado State & Federal Candidate Positions & Survey Responses—May 2010,” Colorado Right to Life Blog, May 17, 2010, <http://coloradorighttolife.blogspot.com/2010/05/colorado-state-federal-candidate.html>.
- 56 Ed Hanks, “Analysis of GOP Primary Results,” August 11, 2010, *Looking On the Right Side*, <http://lookontherightside.blogspot.com/2010/08/analysis-of-gop-primary-results.html>. Colorado Right to Life promotes Hanks’s article at <http://www.coloradorighttolife.org/node/279>.
- 57 “Colorado State & Federal Candidate Positions & Survey Responses—May 2010,” Colorado Right to Life Blog, May 17, 2010, <http://coloradorighttolife.blogspot.com/2010/05/colorado-state-federal-candidate.html>.
- 58 “Colorado 2012 Election Results,” *Denver Post*, <http://data.denverpost.com/election/results/2012/>.
- 59 Ari Armstrong, “By Endorsing Horrific ‘Personhood’ Measure, Republicans Court Defeat,” AriArmstrong.com, May 29, 2010, <http://ariarmstrong.com/2010/05/by-endorsing-horrific-personhood-measure-republicans-court-defeat/>.
- 60 “Colorado State & Federal Candidate Positions & Survey Responses—May 2010,” Colorado Right to Life Blog, May 17, 2010, <http://coloradorighttolife.blogspot.com/2010/05/colorado-state-federal-candidate.html>; Ari Armstrong, “Maes Afflicted with GOP’s Abortion Schizophrenia,” AriArmstrong.com, May 27, 2010, <http://ariarmstrong.com/2010/05/maes-afflicted-with-gops-abortion-schizophrenia/>.
- 61 Steven K. Paulson, “Maes Picks Williams as Running Mate in Colorado Governor’s Race,” Associated Press, August 17, 2010, <http://www.summitdaily.com/article/20100817/NEWS/100819836>.
- 62 Greg Sargent, “GOP Senate Candidate: No Abortion in Cases of Rape or Incest,” *Washington Post*, August 3, 2010, [http://voices.washingtonpost.com/plum-line/2010/08/gop\\_senate\\_candidate\\_no\\_aborti.html](http://voices.washingtonpost.com/plum-line/2010/08/gop_senate_candidate_no_aborti.html); “Candidate Survey—Jane Norton, United States Senate,” Adams County Republicans, <http://web.archive.org/web/20100629043440/http://www.adcorepublicans.com/2010/01/candidate-survey-%E2%80%93-jane-norton-united-states-senate/>; “Colorado State & Federal Candidate Positions & Survey Responses—May 2010,” Colorado Right to Life Blog, May 17, 2010, <http://coloradorighttolife.blogspot.com/2010/05/colorado-state-federal-candidate.html>.

- 63 “Colorado 2012 Election Results,” *Denver Post*, <http://data.denverpost.com/election/results/2012/>.
- 64 Lynn Bartels, “Cory Gardner changes position on personhood,” *Denver Post*, March 21, 2014, [http://www.denverpost.com/news/ci\\_25395470/senate-bombshell-cory-gardner-says-cant-support-personhood](http://www.denverpost.com/news/ci_25395470/senate-bombshell-cory-gardner-says-cant-support-personhood).
- 65 Cory Gardner, “Women should be able to buy the pill without a prescription,” *Denver Post*, June 24, 2014, [http://www.denverpost.com/opinion/ci\\_25995739/women-should-be-able-buy-pill-without-prescription](http://www.denverpost.com/opinion/ci_25995739/women-should-be-able-buy-pill-without-prescription).
- 66 “A Fight Over Birth Control in Colorado,” FactCheck.org, August 15, 2014, <http://www.factcheck.org/2014/08/a-fight-over-birth-control-in-colorado/>.
- 67 Jason Salzman, “Reporter Has No Luck Understanding Gardner Hypocrisy,” *Huffington Post*, September 8, 2014, [http://www.huffingtonpost.com/jason-salzman/reporter-has-no-luck-unde\\_b\\_5785812.html](http://www.huffingtonpost.com/jason-salzman/reporter-has-no-luck-unde_b_5785812.html).
- 68 Karen Middleton, “Cory Gardner Still Backs Abortion Ban, Opposes Birth Control,” *Huffington Post*, August 15, 2014, [http://www.huffingtonpost.com/karen-middleton/cory-gardner-still-backs-\\_b\\_5682264.html](http://www.huffingtonpost.com/karen-middleton/cory-gardner-still-backs-_b_5682264.html).
- 69 “Bob Beauprez Goes ‘Both Ways’ on Personhood Abortion Ban,” ColoradoPols.com, March 5, 2014, <http://coloradopols.com/diary/55169/bob-beauprez-goes-both-ways-on-personhood-abortion-ban>.
- 70 “Reporters who don’t think Beauprez’s abortion position is important should read this,” BigMedia.org, September 22, 2014, <http://bigmedia.org/2014/09/22/reporters-who-dont-think-beauprezs-abortion-is-important-should-read-this/>. See also Ryan Warner, “Gubernatorial Candidate Bob Beauprez on Social Issues,” *Colorado Public Radio*, April 5, 2010, <http://www.cpr.org/news/story/gubernatorial-candidate-bob-beauprez-social-issues>.
- 71 John Frank, “Beauprez States Out Position on Abortion, Personhood,” *Denver Post*, September 18, 2014, <http://blogs.denverpost.com/thespot/2014/09/18/beauprez-stakes-position-abortion-personhood/112953/>.
- 72 “Why I pulled a story about Mike Coffman’s personhood views,” *Denver Post*, <http://blogs.denverpost.com/thespot/2014/04/16/pulled-story-mike-coffmans-personhood-views/108285/>.
- 73 “Mike Coffman (candidate for congress) Clarification,” The Colorado Right to Life Blog, October 29, 2008, <http://coloradorighttolife.blogspot.com/2008/10/mike-coffman-candidate-for-congress.html>.
- 74 “Representative Coffman’s Statement on H.R. 1797,” <http://coffman.house.gov/media-center/press-releases/representative-coffman-s-statement-on-hr-1797>.
- 75 “2014 Pre-Primary Candidate,” The Colorado Right to Life Blog, June 5, 2014, <http://coloradorighttolife.blogspot.com/2014/06/2014-pre-primary-candidate-info.html>.
- 76 Ari Armstrong, “Resolved: Republicans Are Schizophrenic on Abortion,” AriArmstrong.com, May 25, 2010, <http://ariarmstrong.com/2010/05/resolved-republicans-are-schizophrenic-on-abortion/>.
- 77 “Colorado’s ‘Personhood’ Candidates Take a Beating,” AriArmstrong.com, November 2010, <http://ariarmstrong.com/2012/11/colorados-personhood-candidates-take-a-beating/>.
- 78 “NBC News/Marist Poll, July 2014, Colorado Questionnaire,” [http://msnbcmedia.msn.com/i/MSNBC/Sections/A\\_Politics/NBC%20News\\_Marist%20Poll%20Colorado%20Annotated%20Questionnaire\\_July%202014.pdf](http://msnbcmedia.msn.com/i/MSNBC/Sections/A_Politics/NBC%20News_Marist%20Poll%20Colorado%20Annotated%20Questionnaire_July%202014.pdf).
- 79 Rebecca Berg, “Anti-abortion groups split over personhood,” *Washington Examiner*, September 30, 2014, <http://washingtonexaminer.com/anti-abortion-groups-split-over-personhood/article/2554150>.
- 80 Linn Armstrong and Ari Armstrong, “Hank Brown Rallies Republican Majority for Choice,” AriArmstrong.com, September 15, 2008, <http://ariarmstrong.com/2008/09/hank-brown-rallies-republican-majority-for-choice/>.
- 81 “Personhood Republican Presidential Candidate Pledge,” Personhood USA, <http://www.personhoodusa.com/blog/personhood-republican-presidential-candidate-pledge>.
- 82 Dave Bohon, “GOP Candidates Pledge to Pursue Pro-Life ‘Personhood’ Agenda,” *The New American*, December 30, 2014, <http://www.thenewamerican.com/usnews/politics/item/10001-gop-candidates-pledge-to-pursue-pro-life-personhood-agenda>.
- 83 Josh Hicks, “Romney’s Official Stance on Abortion,” *Washington Post*, October 22, 2012, [http://www.washingtonpost.com/blogs/fact-checker/post/romneys-official-stance-on-abortion/2012/10/22/f7bd00dc-1a3d-11e2-aa6f-3b636fecb829\\_blog.html](http://www.washingtonpost.com/blogs/fact-checker/post/romneys-official-stance-on-abortion/2012/10/22/f7bd00dc-1a3d-11e2-aa6f-3b636fecb829_blog.html).
- 84 Emily Friedman, “Dems Attack Romney on Abortion, Personhood,” *ABC News*, November 3, 2011, <http://abcnews.go.com/blogs/politics/2011/11/dems-attack-romney-on-abortion-personhood/>.
- 85 Rand Paul, “My filibuster was just the beginning,” *Washington Post*, March 8, 2013, [http://www.washingtonpost.com/opinions/sen-rand-paul-my-filibuster-was-just-the-beginning/2013/03/08/6352d8a8-881b-11e2-9d71-f0feafdd1394\\_story.html](http://www.washingtonpost.com/opinions/sen-rand-paul-my-filibuster-was-just-the-beginning/2013/03/08/6352d8a8-881b-11e2-9d71-f0feafdd1394_story.html).
- 86 “S. 583: Life at Conception Act,” U.S. Senate, March 18, 2013, <https://www.govtrack.us/congress/bills/113/s583/text>.



- 87 “Sanctity of Life,” Rand Paul, <http://www.paul.senate.gov/?p=issue&cid=3>.
- 88 Eric Dolan, “Rand Paul on abortion: Civilization will collapse unless fetuses get personhood rights,” RawStory, August 12, 2014, <http://www.rawstory.com/rs/2014/08/rand-paul-on-abortion-civilization-will-collapse-unless-fetuses-get-personhood-rights/>.
- 89 Jacob Axlerad, “Rand Paul opens San Francisco area office. Preparing for 2016?,” *Christian Science Monitor*, September 22, 2014, <http://www.csmonitor.com/USA/USA-Update/2014/0922/Rand-Paul-opens-San-Francisco-area-office.-Preparing-for-2016-video>.
- 90 Laura Bassett, “Paul Ryan Cosponsors New Fetal Personhood Bill,” *Huffington Post*, January 9, 2013, [http://www.huffingtonpost.com/2013/01/09/paul-ryan-personhood-bill\\_n\\_2440365.html](http://www.huffingtonpost.com/2013/01/09/paul-ryan-personhood-bill_n_2440365.html).
- 91 “Sanctity of Human Life Act,” 113<sup>th</sup> Congress, January 3, 2013, <https://www.govtrack.us/congress/bills/113/hr23/text>.
- 92 Laura Bassett, “Paul Ryan Cosponsors New Fetal Personhood Bill,” *Huffington Post*, January 9, 2013, [http://www.huffingtonpost.com/2013/01/09/paul-ryan-personhood-bill\\_n\\_2440365.html](http://www.huffingtonpost.com/2013/01/09/paul-ryan-personhood-bill_n_2440365.html).
- 93 “Jeb Bush on Abortion,” On the Issues, [http://www.ontheissues.org/celeb/Jeb\\_Bush\\_Abortion.htm](http://www.ontheissues.org/celeb/Jeb_Bush_Abortion.htm).
- 94 Oliver Burkeman, “Jeb Bush stirs up abortion debate,” *The Guardian*, May 14, 2003, <http://www.theguardian.com/world/2003/may/15/usa.oliverburkeman>.
- 95 Dana Canedy, “Gov. Jeb Bush to Seek Guardian for Fetus of Rape Victim,” *New York Times*, May 15, 2003, <http://www.nytimes.com/2003/05/15/us/gov-jeb-bush-to-seek-guardian-for-fetus-of-rape-victim.html>.
- 96 “Colorado Definition of ‘Personhood’ Initiative, Amendment 67 (2014),” Ballotpedia, [http://ballotpedia.org/Colorado\\_Definition\\_of\\_%22Personhood%22\\_Initiative,\\_Amendment\\_67\\_\(2014\)](http://ballotpedia.org/Colorado_Definition_of_%22Personhood%22_Initiative,_Amendment_67_(2014)).
- 97 “2013–2014 #5—Definition of a Person and Child: Final Text,” Colorado Secretary of State, March 1, 2013, <http://www.sos.state.co.us/pubs/elections/Initiatives/titleBoard/filings/2013-2014/5Final.pdf>.
- 98 “Colorado Amendment 67,” Personhood USA, <http://www.personhoodusa.com/campaigns/colorado-brady-amendment-67/>.
- 99 Jessica Fender, “Serial Drunk Driver Accused of Killing Child Arrested Often, Rarely Jailed,” *Denver Post*, July 15, 2012, [http://www.denverpost.com/news/ci\\_21078186/sheats-driver-accused-killing-child-arrested-often-rarely](http://www.denverpost.com/news/ci_21078186/sheats-driver-accused-killing-child-arrested-often-rarely).
- 100 “Gov. Hickenlooper Signs Numerous Bills,” Colorado.gov, June 5, 2013, <http://www.colorado.gov/cs/Satellite?c=Page&chidpagemame=GovHickenlooper%2FCBONLayout&cid=1251643160189&pagemame=CBONWrapper>. For the language of the act, see [http://www.leg.state.co.us/CLICS/CLICS2013A/csl.nsf/fsbillcont3/0A13A83016FE5FA587257AE0055B9AC?Open&file=1154\\_enr.pdf](http://www.leg.state.co.us/CLICS/CLICS2013A/csl.nsf/fsbillcont3/0A13A83016FE5FA587257AE0055B9AC?Open&file=1154_enr.pdf).
- 101 See statutes 18-1.3-401 for felony sentencing ranges.
- 102 Personhood USA spokesperson Jennifer Mason, as quoted in Jason Salzman, “Crimes Against Pregnant Women Act Deserves More Press Attention,” BigMedia.org, June 5, 2013, <http://bigmedia.org/2013/06/05/crimes-against-pregnant-women-act-deserves-more-press-attention/>.
- 103 “Official Ballot Language for Measures Appearing on the Election Ballot November 4, 2014,” North Dakota Secretary of State, <http://www.webcitation.org/6SLLAPzYn>.
- 104 “About,” ND Choose Life, <http://ndchooselife.com/about/>.
- 105 “Frequently Asked Questions,” ND Choose Life, <http://ndchooselife.com/wp-content/uploads/2014/03/NDFQAQ-06.pdf>.
- 106 Dave Thompson, “North Dakota Anti-Abortion Amendment for State Ballot Clears Senate,” Reuters, February 7, 2013, <http://www.reuters.com/article/2013/02/07/us-usa-abortion-northdakota-idUSBRE91618Z20130207>.
- 107 Daniel S. Sullivan and Michael A. Barnhill, Letter to Lieutenant Governor Craig E. Campbell, October 22, 2009, [http://ltgov.state.ak.us/pdfs/elections/initiatives/2009/09LPHB\\_Certification\\_Law.pdf](http://ltgov.state.ak.us/pdfs/elections/initiatives/2009/09LPHB_Certification_Law.pdf).
- 108 “Amendment 48: Definition of a Person,” Colorado Legislature, [http://www.leg.state.co.us/lcs/initrefr/0708initrefr.nsf/89fb842d0401c52087256cbc00650696/16f403e0c19126f98725744b0050fd4d/\\$file/amendment%2048.pdf](http://www.leg.state.co.us/lcs/initrefr/0708initrefr.nsf/89fb842d0401c52087256cbc00650696/16f403e0c19126f98725744b0050fd4d/$file/amendment%2048.pdf).
- 109 “Colorado Fetal Personhood, Initiative 62 (2010),” Ballotpedia, [http://ballotpedia.org/Colorado\\_Fetal\\_Personhood,\\_Initiative\\_62\\_\(2010\)](http://ballotpedia.org/Colorado_Fetal_Personhood,_Initiative_62_(2010)).
- 110 Jason Salzman, “Colorado ‘Brady Amendment’ Is Really a ‘Personhood’ Initiative,” *RH Reality Check*, <http://rhrealitycheck.org/article/2013/08/29/colorado-brady-amendment-is-really-a-personhood-initiative/>.
- 111 “Leadership,” Personhood USA, October 12, 2013, <http://web.archive.org/web/20131012035131/http://www.personhoodusa.com/about-us/leadership/>.

- 112 Joseph Boven, "Personhood's Jones Says Amendment's Effects Exaggerated But Real," *Colorado Independent*, July 15, 2010, <http://www.coloradoindependent.com/57321/personhoods-jones-says-amendments-effects-exaggerated-but-real>.
- 113 On Bob Enyart Live, Enyart said, "Abortion [in] the law should be murder, and if you commit murder, you get put to death. And if the woman is a willing accomplice, she also would be put to death." See <http://www.youtube.com/watch?v=lzOcTJpgx0k>. Enyart is the pastor of the Denver Bible Church; see <http://kgov.com/about>.
- 114 "National Review Writer: Women Who Have Abortions Should Be Hanged," *TPM*, <http://talkingpointsmemo.com/livewire/kevin-williamson-abortion-tweet>.
- 115 "Personhood Campaign Guidelines," American Right to Life, <http://americanrtl.org/campaign-guidelines>; "Abortion and the Death Penalty," American Right to Life, <http://americanrtl.org/abortion-and-the-death-penalty>.
- 116 Laura Bassett, "Judge Tosses Murder Case Against Mississippi Mom With Stillborn Baby," *Huffington Post*, April 3, 2014, [http://www.huffingtonpost.com/2014/04/03/judge-tosses-mississippi-\\_n\\_5086215.html](http://www.huffingtonpost.com/2014/04/03/judge-tosses-mississippi-_n_5086215.html).
- 117 Nina Lakhini, "El Salvador: Where women may be jailed for miscarrying," *BBC*, October 17, 2013, <http://www.bbc.com/news/magazine-24532694>; Jason Beaubien and John Poole, "Why A Teenage Mom Was Jailed In El Salvador After A Stillbirth," *NPR*, September 22, 2014, <http://www.npr.org/blogs/goatsandsoda/2014/09/22/320323339/why-a-teenage-mom-was-jailed-in-el-salvador-for-a-miscarriage>.
- 118 L. Indra Lusero and Lynn M. Paltrow, "Amendment 48: It's dangerous to women," *Denver Post*, [http://www.denverpost.com/ci\\_10550150](http://www.denverpost.com/ci_10550150).
- 119 "State Facts About Abortion: Colorado," Guttmacher Institute, <http://www.guttmacher.org/pubs/sfaa/colorado.html>.
- 120 Karen Pazol, *et al.*, "Abortion Surveillance—United States, 2010," Center for Chronic Disease Prevention and Health Promotion, November 29, 2013, [http://www.cdc.gov/mmwr/preview/mmwrhtml/ss6208a1.htm?s\\_cid=ss6208a1\\_w](http://www.cdc.gov/mmwr/preview/mmwrhtml/ss6208a1.htm?s_cid=ss6208a1_w).
- 121 Lawrence B. Finer, *et al.*, "Reasons U.S. Women Have Abortions: Quantitative and Qualitative Perspectives," *Perspectives on Sexual and Reproductive Health*, vol. 37, no. 3, September, 2005, p. 113, published by Guttmacher Institute, <http://www.guttmacher.org/pubs/psrh/full/3711005.pdf>.
- 122 "Abortion," Gallup, polling results from May 3–6, 2010 and earlier, <http://www.gallup.com/poll/1576/abortion.aspx?version=print>.
- 123 Rachel Benson Gold, "Lessons from Before Roe: Will Past be Prologue?," Guttmacher Report on Public Policy, vol. 6, no. 1, March 2003, <http://www.guttmacher.org/pubs/tgr/06/1/gr060108.html>. For more on the history of abortion-related deaths, see Dave Kopel, "Echoes of Abortion Fraud," May 5, 2007, <http://davekopel.org/Media/RMN/2007/Echoes-of-abortion-fraud.htm>.
- 124 "Pregnancy Mortality Surveillance System," Centers for Disease Control, <http://www.cdc.gov/reproductivehealth/MaternalInfantHealth/PMSS.html>.
- 125 Jeani Chang, *et al.*, "Pregnancy-Related Mortality Surveillance—United States, 1991–1999," Centers for Disease Control, Surveillance Summaries, February 21, 2003, <http://www.cdc.gov/mmwr/preview/mmwrhtml/ss5202a1.htm>.
- 126 "State Facts About Abortion: Colorado," Guttmacher Institute, <http://www.guttmacher.org/pubs/sfaa/colorado.html>.
- 127 "Prenatal Personhood, can mothers get life-saving medical treatment?," Personhood USA, <http://www.personhoodusa.com/blog/under-personhood-can-mothers-get-life-saving-medical-treatment/>.
- 128 "Statement of Values," Colorado Right to Life, <http://www.coloradorighttolife.org/about-us>.
- 129 Vicken Sepilian and Ellen Wood, "Ectopic Pregnancy," *Medscape*, September 2, 2014, <http://emedicine.medscape.com/article/2041923-overview>.
- 130 Josie L. Tenor, MD, "Ectopic Pregnancy," *American Family Physician*, <http://www.aafp.org/afp/2000/0215/p1080.html>.
- 131 "Ectopic Pregnancy," American Pregnancy Association, <http://americanpregnancy.org/pregnancy-complications/ectopic-pregnancy/>.
- 132 "Fertility and recurrence after treatment for ectopic pregnancy," The Ectopic Pregnancy Trust, <http://www.ectopic.org.uk/publications/fertility-and-recurrence-after-treatment-for-ectopic-pregnancy/>.
- 133 Dr. Patrick Johnston, "Are There Rare Cases When an Abortion Is Justified?," Association of Pro-life Physicians, <http://prolifephysicians.org/app/?p=59>.
- 134 "Questions on Abortion," Priests for Life, <http://www.priestsforlife.org/questions/questionsandanswers.htm>. That reference is given by "Possible Exceptions to the Ban on Abortion by the Roman Catholic Church," *Religious Tolerance*, [http://www.religioustolerance.org/abo\\_hist\\_c1.htm](http://www.religioustolerance.org/abo_hist_c1.htm).

- 135 “The mother’s life,” Personhood Iowa, <http://personhoodiowa.com/the-mothers-life/>.
- 136 Bill Fortenberry, “Ectopic Personhood,” The Personhood Initiative, <http://www.personhoodinitiative.com/ectopic-personhood.html>.
- 137 *Ibid.*
- 138 “The Personhood Debates: Debate 10: Ectopic Pregnancies,” The Personhood Initiative, <http://www.personhoodinitiative.com/debate-10.html>.
- 139 “What is AAPLOG’s Position on Treatment of Ectopic Pregnancy?,” American Association of Pro-Life Obstetricians and Gynecologists, July 2010, <http://www.aaplog.org/position-and-papers/what-is-aaplog%E2%80%99s-position-on-treatment-of-ectopic-pregnancy/>.
- 140 “Over Their Dead Bodies: Denial of Access to Emergency Obstetric Care and Therapeutic Abortion in Nicaragua,” Human Rights Watch, October 1, 2007, <http://www.hrw.org/en/reports/2007/10/01/over-their-dead-bodies>; “Women die after Nicaragua’s ban on abortions,” Associated Press, November 6, 2007, <http://www.nbcnews.com/id/21601045>.
- 141 Suzanne R. Trupin, “Elective Abortion,” *Medscape*, April 1, 2014, <http://emedicine.medscape.com/article/252560-overview>.
- 142 Rory Carroll, “Nicaragua prevents treatment of pregnant cancer patient,” *Guardian*, <http://www.guardian.co.uk/world/2010/feb/23/nicaragua-cancer-treatment-abortion>.
- 143 Matthew Hoffman, “Pro-Abortion Movement Exploits Tragic Case of Pregnant Cancer Victim in Nicaragua,” *LifeSiteNews*, February 22, 2011, <https://www.lifesitenews.com/news/pro-abortion-movement-exploits-tragic-case-of-pregnant-cancer-victim-in-nic>.
- 144 “Nicaragua News Bulletin,” *NicaNet*, July 27, 2010, <http://web.archive.org/web/20111106002534/http://www.nicanet.org/?p=958>.
- 145 “CRTL 2010 Candidate Questionnaire,” Colorado Right to Life, <http://www.coloradorighttolife.org/candidate-survey>.
- 146 Robert J. Muise, Memorandum to Mark Meuser, June 29, 2007, published by Personhood Education, <http://personhoodeducation.files.wordpress.com/2009/06/questions-colorado-amendment-final.pdf>. The “About Us” web page for the center states, “Our purpose is to be the sword and shield for people of faith;” see <http://www.thomasmore.org/about-the-thomas-more-law-center/>.
- 147 “Scare Tactic Alert,” Personhood Colorado, <http://www.personhoodusa.com/blog/scare-tactic-alert/>.
- 148 “Personhood,” Pro-Life Wisconsin, <http://www.prolifewisconsin.org/proLifeIssues.asp?article=Personhood+%26+the+Roe+v.+Wade+Decision&aid=274&cid=7> (emphasis added).
- 149 “Rape and incest,” Personhood Iowa, <http://personhoodiowa.com/rape-and-incest/>.
- 150 “The So-Called Abortion ‘Exception’ of Rape,” American Right to Life, <http://americanrtl.org/abortion-rape-exception>.
- 151 Pamela White, “Extreme Measures,” *Boulder Weekly*, July 31, 2008, <http://boulderweekly.com/archives/20080731/coverstory.html>.
- 152 “ProLife Profiles: Colorado RTL Leslie Hanks,” *ProLife Profiles*, <http://prolifeprofiles.com/hanks>.
- 153 “Scare Tactic Alert,” Personhood Colorado, <http://www.personhoodusa.com/blog/scare-tactic-alert/>.
- 154 “Mirena®,” Bayer HealthCare Pharmaceuticals, <https://dailymed.nlm.nih.gov/dailymed/archives/fdaDrugInfo.cfm?archiveid=12313>. See also “Facts on Contraceptive Use in the United States,” Guttmacher Institute, June 2014, [http://www.guttmacher.org/pubs/fb\\_contr\\_use.html](http://www.guttmacher.org/pubs/fb_contr_use.html).
- 155 “‘Birth’ Control Talking Points,” Colorado Right to Life, <http://www.coloradorighttolife.org/birthcontrol>.
- 156 “Ortho Tri-Cyclen® Tablets,” Ortho-McNeil-Janssen Pharmaceuticals, <http://dailymed.nlm.nih.gov/dailymed/fda/fdaDrugXsl.cfm?setid=a1cfd57-58fd-4fbd-ae18-571c97bff2cd&type=display>; “Trinessa® Tablets,” Watson Pharmaceuticals, <http://dailymed.nlm.nih.gov/dailymed/fda/fdaDrugXsl.cfm?setid=96092977-5514-44a7-be15-51862866c4bf&type=display>. See also WebMD’s review of Trinessa® at <http://www.webmd.com/drugs/2/drug-78126/trinessa-28-oral/details>.
- 157 “Plan B: Questions and Answers,” FDA, December 14, 2006, <http://www.fda.gov/Drugs/DrugSafety/PostmarketDrugSafetyInformationforPatientsandProviders/ucm109783.htm>. See also “Highlights of Prescribing Information,” Woman’s Capital Corporation, <http://www.planbonestep.com/pdf/PlanBOneStepFullProductInformation.pdf>; James Trussell, “Mechanism of Action of Emergency Contraceptive Pills,” Princeton University, May 18, 2010, <http://ec.princeton.edu/questions/MOA.pdf>.
- 158 Pam Belluck and Erik Eckholm, “Religious Groups Equate Some Contraceptives With Abortion,” *New York Times*, February 16, 2012, <http://www.nytimes.com/2012/02/17/health/religious-groups-equate-some-contraceptives-with-abortion.html>; Pam Belluck, “Abortion Qualms on Morning-After Pill May Be Unfounded,” *New York Times*, June 5, 2012, <http://www.nytimes.com/2012/06/06/health/research/morning-after-pills-dont-block-implantation-science-suggests.html>.
- 159 *Ibid.*

- 160 Karen Swallow Prior, "The Pill: Contraceptive or Abortifacient?" *Atlantic*, December 21, 2012, <http://www.theatlantic.com/sexes/archive/2012/12/the-pill-contraceptive-or-abortifacient/266725/>.
- 161 Bill Fortenberry, "Personhood and the Pill," The Personhood Initiative, <http://www.personhoodinitiative.com/personhood-and-the-pill.html>.
- 162 "Can Birth Control Cause an Abortion?", Abort73.com, [http://www.abort73.com/abortion\\_facts/which\\_birth\\_control\\_methods\\_cause\\_abortion/](http://www.abort73.com/abortion_facts/which_birth_control_methods_cause_abortion/).
- 163 "'Birth' Control Talking Points," Colorado Right to Life, <http://www.coloradorighttolife.org/birthcontrol>.
- 164 "Oral Contraceptive Controversy," American Association of Pro-Life Obstetricians and Gynecologists, <http://www.aaplog.org/position-and-papers/oral-contraceptive-controversy/>.
- 165 "LTI: Birth control pills do not cause abortions," Personhood USA, <http://www.personhoodusa.com/blog/lti-birth-control-pills-do-not-cause-abortions/>; "Does a Thin Uterine Lining Support the 'Pill as Baby Killer' Theory? [Serge]," Life Training Institute, June 16, 2008, <http://liti-blog.blogspot.com/2008/06/does-thin-uterine-lining-support-pill.html>.
- 166 "Can Birth Control Cause an Abortion?", Abort73.com, [http://www.abort73.com/abortion\\_facts/which\\_birth\\_control\\_methods\\_cause\\_abortion/](http://www.abort73.com/abortion_facts/which_birth_control_methods_cause_abortion/); "Plan B not abortifacient?", Personhood USA, <http://www.personhoodusa.com/blog/plan-b-not-abortifacient/>; "Emergency Contraception," American Association of Pro-Life Obstetricians and Gynecologists, <http://www.aaplog.org/position-and-papers/emergency-contraception/>.
- 167 "AAPLOG position on 'ELLA,' the newest 'emergency contraception,'" American Association of Pro-Life Obstetricians and Gynecologists, <http://www.aaplog.org/position-and-papers/emergency-contraception/aaplog-position-on-%E2%80%9CCella%E2%80%9D-the-newest-%E2%80%9CEmergency-contraception%E2%80%9D/>.
- 168 William D. Mosher and Jo Jones, "Use of contraception in the United States: 1982–2008," *Vital and Health Statistics*, series 23, no. 29, August 2010, [http://www.cdc.gov/nchs/data/series/sr\\_23/sr23\\_029.pdf](http://www.cdc.gov/nchs/data/series/sr_23/sr23_029.pdf), p. 15 (emphasis removed).
- 169 "Facts on Contraceptive Use in the United States," Guttmacher Institute, June 2014, [http://www.guttmacher.org/pubs/fb\\_contr\\_use.html](http://www.guttmacher.org/pubs/fb_contr_use.html).
- 170 "Tubal Sterilization," *Emedicine*, [http://www.emedicinehealth.com/tubal\\_sterilization/page3\\_em.htm](http://www.emedicinehealth.com/tubal_sterilization/page3_em.htm).
- 171 T. G. Kennedy, "Physiology of Implantation," paper for the 104th World Congress on In Vitro Fertilization and Assisted Reproduction, May 24–28, 1997, University of Western Ontario, <http://publish.uwo.ca/~kennedyt/t108.pdf>.
- 172 "Miscarriage," American Pregnancy Association, <http://www.americanpregnancy.org/pregnancycomplications/miscarriage.html>.
- 173 William Saletan, "Breast-Feeding Kills: The Pro-Life Case Against Birth Control, Nursing, and Exercise," *Slate*, August 5, 2008, <http://www.slate.com/id/2196784>.
- 174 "2011 Assisted Reproductive Technology: Fertility Clinic Success Rates Reports," Centers for Disease Control and Prevention, August 2013, [http://www.cdc.gov/art/ART2011/PDFs/ART\\_2011\\_Clinic\\_Report-Full.pdf](http://www.cdc.gov/art/ART2011/PDFs/ART_2011_Clinic_Report-Full.pdf). (The total number of live births using IVF was extrapolated from the data in the report.)
- 175 Bonnie Rochman, "5 million babies born through IVF in past 35 years, researchers say," *NBC News*, October 13, 2013, <http://www.nbcnews.com/health/kids-health/5-million-babies-born-through-ivf-past-35-years-researchers-f8C11390532>.
- 176 "2011 Assisted Reproductive Technology: Fertility Clinic Success Rates Reports," Centers for Disease Control and Prevention, August 2013, [http://www.cdc.gov/art/ART2011/PDFs/ART\\_2011\\_Clinic\\_Report-Full.pdf](http://www.cdc.gov/art/ART2011/PDFs/ART_2011_Clinic_Report-Full.pdf).
- 177 "Frozen Embryo Transfer (FET) Explained," Shady Grove Fertility, <http://www.shadygrovefertility.com/newsletter/frozen-embryo-transfer-fet>.
- 178 "In Vitro Fertilization," Colorado Center for Reproductive Medicine, <http://www.colocrm.com/Services/InVitroFertilizationIVF.aspx>, particularly <http://www.colocrm.com/Services/InVitroFertilizationIVF/EggFertilizationandEmbryoCulture.aspx> and <http://www.colocrm.com/Services/InVitroFertilizationIVF/EmbryoFreezing.aspx>.
- 179 Atlee Breland, "IVF FAQ," Parents Against Personhood, <http://parentsagainstepersonhood.com/resources/ivf/ivf-faq/>.
- 180 "New Study Confirms Overwhelming Death Rate of IVF Human Embryos," *LifeSiteNews*, October 26, 2010, <https://www.lifesitenews.com/news/new-study-confirms-overwhelming-death-rate-of-ivf-human-embryos>.
- 181 "Change of heart: Eminent Chicago IVF doctor quits practice of creating babies in Petri dishes," *LifeSiteNews*, April 24, 2014, "UK IVF Clinics Have Intentionally Killed over One Million Human Embryonic Children," <https://www.lifesitenews.com/news/change-of-heart-eminient-chicago-ivf-doctor-quits-practice-of-creating-babi>; John Connolly, "UK IVF Clinics Have



- Intentionally Killed over One Million Human Embryonic Children,” January 2, 2008, <https://www.lifesitenews.com/news/uk-ivf-clinics-have-intentionally-killed-over-one-million-human-embryonic-c>.
- 182 “5 million children born by IVF. What’s a Christian to think?,” *LifeSiteNews*, October 28, 2013, <https://www.lifesitenews.com/blogs/5-million-children-born-by-ivf.-whats-a-christian-to-think>.
- 183 “Instruction on Respect For Human Life in Its Origin and on the Dignity of Procreation,” Vatican, February 22, 1987, [http://www.vatican.va/roman\\_curia/congregations/cfaith/documents/rc\\_con\\_cfaith\\_doc\\_19870222\\_respect-for-human-life\\_en.html](http://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_19870222_respect-for-human-life_en.html).
- 184 “Countering pro-abortion lies about Personhood,” Personhood USA, <http://www.personhoodusa.com/blog/countering-pro-abortion-lies-about-personhood-2>.
- 185 Atlee Breland, “IVF FAQ,” Parents Against Personhood, <http://parentsagainstopersonhood.com/resources/ivf/ivf-faq/>.
- 186 “Stem Cell Information: Frequently Asked Questions (FAQs),” National Institutes of Health, <http://stemcells.nih.gov/info/faqs.asp>.
- 187 Andrew Hough, “Synthetic blood breakthrough after scientists ‘produce red cells from IVF embryos,’” *Telegraph*, <http://www.telegraph.co.uk/health/healthnews/7947628/Synthetic-blood-breakthrough-after-scientists-produce-red-cells-from-IVF-embryos.html>. For background on the critic, see “Josephine Quintavalle,” *Source Watch*, [http://www.sourcewatch.org/index.php?title=Josephine\\_Quintavalle](http://www.sourcewatch.org/index.php?title=Josephine_Quintavalle), and Gordon Urquhart, “Christian Conservatives Find a Common Crusade,” *Times*, July 23, 2005, <http://www.thetimes.co.uk/tto/faith/article2100038.ece>.
- 188 Elizabeth Landau, “Landmark Embryonic Stem Cell Study to Proceed,” *CNN*, July 30, 2010, <http://pagingdrgupta.blogs.cnn.com/2010/07/30/landmark-embryonic-stem-cell-study-to-proceed/>.
- 189 Steve Weatherbe, “FDA Okays Embryonic Stem-Cell Trials on Humans But Lawsuit Would Stop Expanded Funding,” *National Catholic Register*, August 18, 2010, [http://www.ncregister.com/register\\_exclusives/fda-okays-embryonic-stem-cell-trials-on-humans/](http://www.ncregister.com/register_exclusives/fda-okays-embryonic-stem-cell-trials-on-humans/).
- 190 In this section, all references to the *Roe v. Wade* Supreme Court decision come from “Roe v. Wade,” United States Supreme Court, 410 U.S. 113, January 22, 1973, FindLaw, <http://laws.findlaw.com/us/410/113.html>.
- 191 “Abortion Access,” Planned Parenthood Action Center, <http://www.plannedparenthoodaction.org/issues/abortion-access/>.
- 192 “Tools for Educators: Research Papers,” Planned Parenthood, <http://www.plannedparenthood.org/educators/resources/research-papers?category=Abortion&type=Research+Papers>.
- 193 “Publications,” NARAL Pro-Choice America Foundation, <http://www.prochoiceamerica.org/media/publications/>.
- 194 Sean Cockerham, “New fight develops over rights of fetuses,” *Anchorage Daily News*, <http://www.adn.com/article/20091128/new-fight-develops-over-rights-fetuses>.
- 195 Bob Unruh, “‘Personhood’ to be theme at 2010 Roe anniversary,” *World Net Daily*, January 12, 2010, <http://www.wnd.com/2010/01/121700/>; “The Modern Personhood Movement—What is it?,” National Personhood Alliance, <http://www.personhood.net/index.php/world/543-the-modern-personhood-movement-what-is-it>; “Life at Conception Act,” National Pro-Life Alliance, [http://www.prolifealliance.com/end\\_roeVwade.html](http://www.prolifealliance.com/end_roeVwade.html); “What Is Personhood?,” Personhood USA, <http://www.personhoodusa.com/about-us/what-is-personhood/>.
- 196 “Amendment 67 FAQs,” Protect Families Protect Choices, <http://www.voteno67.com/index.php/faqs/faqs>.
- 197 “Vote NO 67 Organizational Endorsements,” NO on 67, <http://www.voteno67.com/index.php/endorsements/endorsements>.
- 198 “Rocky Talk Live with Crystal Clinkenbeard of ‘Protect Families, Protect Choices,’” *Rocky Mountain News*, October 14, 2008, [http://web.archive.org/web/20100107151704/http://blogs.rockymountainnews.com/rockytalklive/archives/2008/10/crystal-clinkenbeard\\_of\\_protect.html](http://web.archive.org/web/20100107151704/http://blogs.rockymountainnews.com/rockytalklive/archives/2008/10/crystal-clinkenbeard_of_protect.html).
- 199 “About Us,” Personhood USA, <http://www.personhoodusa.com/about-us/>; “The Bible and Abortion,” Colorado Right to Life, <http://coloradortl.org/Bible>; “Personhood Campaign Statement of Values,” Colorado Right to Life, <http://coloradorighttolife.org/Personhood-Statement-of-Values>; “Statement of Values,” Colorado Right to Life, <http://coloradorighttolife.org/statement-values>; “Principles,” American Right to Life, <http://americanrtl.org/principles>; “For Churches,” Personhood Colorado, <http://web.archive.org/web/20100329205838/http://www.personhoodcolorado.com/content/churches>; “Pro-life objectives,” American Life League, <http://www.all.org/article.php?id=10705>; “About,” Personhood Florida, <http://personhoodfl.com/about-2/>; “Biblical Teaching,” Abort73.com, [http://www.abort73.com/abortion/biblical\\_teaching/](http://www.abort73.com/abortion/biblical_teaching/); “The Three Laws of Personhood,” National Personhood Alliance, <http://www.personhood.net/index.php/policy/98-3-laws-of-personhood>.
- 200 “What Is Personhood?,” Personhood USA, <http://www.personhoodusa.com/about-us/what-is-personhood/>; “What Science Tells Us,” Colorado for Equal Rights, <http://web.archive.org/web/20100419062955/http://www.coloradoforequalrights.com/>

- node/14; “Colorado Amendment 62 Talking Points,” Colorado Right to Life, <http://coloradortl.org/files/A62/A62TalkingPoints.pdf>; “The Case Against Abortion,” Abort73.com, <http://abort73.com/abortion/>; “Why Personhood?”, American Life League, <http://www.all.org/article.php?id=11790>; “What is Personhood,” Personhood Florida, <http://www.personhoodfl.com/about-2/what-is-personhood/>.
- 201 “What Is Personhood?”, Personhood USA, <http://www.personhoodusa.com/about-us/what-is-personhood/>.
- 202 Abort73.com, <http://www.abort73.com/>; Randy Alcorn, *Prolife Answers to Prochoice Arguments* (Multnomah Press, 1992).
- 203 Randy Alcorn, *Prolife Answers to Prochoice Arguments* (Multnomah Press, 1992), pp. 39–41.
- 204 *Ibid.*, pp. 43–5, 47–51.
- 205 “Prenatal Development,” Abort 73.com, [http://www.abort73.com/abortion/prenatal\\_development/](http://www.abort73.com/abortion/prenatal_development/).
- 206 Randy Alcorn, *Prolife Answers to Prochoice Arguments* (Multnomah Press, 1992), pp. 53–5.
- 207 “Personhood,” Abort 73.com, <http://www.abort73.com/abortion/personhood/>.
- 208 Randy Alcorn, *Prolife Answers to Prochoice Arguments* (Multnomah Press, 1992), pp. 56–7. See also “Inconsequential Differences,” Abort 73.com, [http://www.abort73.com/abortion/inconsequential\\_differences/](http://www.abort73.com/abortion/inconsequential_differences/).
- 209 Randy Alcorn, *Prolife Answers to Prochoice Arguments* (Multnomah Press, 1992), p. 57.
- 210 “Inconsequential Differences,” Abort 73.com, [http://www.abort73.com/abortion/inconsequential\\_differences/](http://www.abort73.com/abortion/inconsequential_differences/).
- 211 “Personhood,” Abort 73.com, <http://www.abort73.com/abortion/personhood/>.
- 212 “Competing Rights,” Abort 73.com, [http://www.abort73.com/abortion/competing\\_rights/](http://www.abort73.com/abortion/competing_rights/).
- 213 Randy Alcorn, *Prolife Answers to Prochoice Arguments* (Multnomah Press, 1992), p. 79–80; “Competing Rights,” Abort 73.com, [http://www.abort73.com/abortion/competing\\_rights/](http://www.abort73.com/abortion/competing_rights/).
- 214 “The Role of Law,” Abort 73.com, [http://www.abort73.com/abortion/the\\_role\\_of\\_law/](http://www.abort73.com/abortion/the_role_of_law/).
- 215 *Ibid.*
- 216 “Facts on Induced Abortion in the United States,” Guttmacher Institute, July 2014, [http://www.guttmacher.org/pubs/fb\\_induced\\_abortion.html](http://www.guttmacher.org/pubs/fb_induced_abortion.html).
- 217 “What Is Personhood?”, Personhood USA, <http://www.personhoodusa.com/about-us/what-is-personhood/>.
- 218 Ayn Rand, “Galt’s Speech,” *For the New Intellectual* (Signet, 1963).
- 219 Ayn Rand, “The Nature of Government,” *The Virtue of Selfishness* (Signet, 1964), pp. 107–108, <https://ari.aynrand.org/issues/government-and-business/individual-rights/Mans-Rights>.
- 220 Ayn Rand, “Man’s Rights,” *The Virtue of Selfishness* (Signet, 1964), pp. 93–94, <https://ari.aynrand.org/issues/government-and-business/individual-rights/Mans-Rights>.
- 221 Ayn Rand, “The Nature of Government,” *The Virtue of Selfishness* (Signet, 1964), pp. 107–108, <https://ari.aynrand.org/issues/government-and-business/individual-rights/Mans-Rights>.
- 222 All information on fetal development is drawn from U.S. National Library of Medicine, “Fetal Development,” <http://www.nlm.nih.gov/medlineplus/ency/article/002398.htm>.
- 223 “Morphing Embryos,” *Nova*, <http://www.pbs.org/wgbh/nova/odyssey/clips>.
- 224 “NIH Study Reveals Factors That Influence Premature Infant Survival, Disability,” National Institutes of Health, April 16, 2008, <http://www.nih.gov/news/health/apr2008/nichd-16.htm>.
- 225 Arthur C. Wittich and Michelle E. Szczepanik, “True Knot of the Umbilical Cord: A Report of 13 Cases,” *Military Medicine*, August, 2007, <http://www.ncbi.nlm.nih.gov/pubmed/17803086>.
- 226 The text of the next few paragraphs is partly drawn (with permission) from Ari Armstrong’s and Diana Hsieh’s article “The Assault on Abortion Rights Undermines All Our Liberties,” *The Objective Standard*, Winter 2011, <https://www.theobjectivestandard.com/issues/2011-winter/abortion-rights/>.
- 227 Leonard Peikoff, “Abortion Rights are Pro-Life,” [http://www.peikoff.com/essays\\_and\\_articles/abortion-rights-are-pro-life/](http://www.peikoff.com/essays_and_articles/abortion-rights-are-pro-life/). Ari Armstrong previously addressed the logical fallacies of “personhood” arguments; see “Why Sam Alexander is Wrong on ‘Personhood,’” AriArmstrong.com, August 16, 2010, <http://ariarmstrong.com/2010/08/why-sam-alexander-is-wrong-on-personhood/>.
- 228 “Competing Rights,” Abort73.com, [http://www.abort73.com/abortion/competing\\_rights/](http://www.abort73.com/abortion/competing_rights/).

229 *Ibid.*

230 “Baby Safe Haven,” <http://www.safehaven.tv/>.

231 Ayn Rand, “Of Living Death,” *Voice of Reason* (Penguin Books, 1989), p. 55.

232 “Week By Week Calendar,” *What to Expect*, <http://www.whattoexpect.com/pregnancy/week-by-week/landing.aspx>. (See the relevant pages for each week.)

233 “Facts on Induced Abortion in the United States,” Guttmacher Institute, July 2014, [http://www.guttmacher.org/pubs/fb\\_induced\\_abortion.html](http://www.guttmacher.org/pubs/fb_induced_abortion.html).

234 “Facts on Contraceptive Use in the United States,” Guttmacher Institute, June 2014, [http://www.guttmacher.org/pubs/fb\\_contr\\_use.html](http://www.guttmacher.org/pubs/fb_contr_use.html).

235 Electa Draper, “Face of ‘Personhood’ Issue Young, Resolute,” *Denver Post*, May 5, 2008, [http://www.denverpost.com/ci\\_9153861](http://www.denverpost.com/ci_9153861).

236 “For Churches,” Personhood Colorado, <http://web.archive.org/web/20100329205838/http://www.personhoodcolorado.com/content/churches> (emphasis removed and two periods added).

237 “Statement of Values,” Colorado Right to Life, <http://coloradortl.org/about-us>.

238 “The Bible and Abortion,” Colorado Right to Life, <http://ColoradoRTL.org/Bible>.

239 “About,” Personhood Florida, <http://personhoodfl.com/about-2/>.

240 “About Us,” Personhood Mississippi, <http://www.personhoodmississippi.com/about-us>.

241 “About Us,” Personhood USA, <http://www.personhoodusa.com/about-us/>.

242 “Who is the National Personhood Alliance?,” National Personhood Alliance, <http://www.personhood.net/index.php/press/who-is-national-personhood-alliance>.

243 “3 Laws of Personhood,” National Personhood Alliance, <http://www.personhood.net/index.php/policy/98-3-laws-of-personhood>.

244 “About Us,” Abort73.com, [http://abort73.com/about\\_us/](http://abort73.com/about_us/).

245 “Personhood Campaign Guidelines,” American Right to Life, <http://americanrtl.org/campaign-guidelines> (emphasis removed).

246 Thomas Jefferson, “Letter to the Danbury Baptists,” January 1, 1802, republished by Coalition for Secular Government, <http://www.seculargovernment.us/history/jefferson-danbury.shtml>.

247 Onkar Ghate, “The Separation of Church and State,” Ayn Rand Institute eStore, 2009, <https://estore.aynrand.org/p/159/the-separation-of-church-and-state-mp3-download>.

248 *Ibid.*

249 “Colorado Voters to Decide on Pro-Life Amendment,” Focus on the Family Action, August 5, 2008, <http://web.archive.org/web/20080822052447/http://www.citizenlink.org/content/A000007934.cfm>.

250 Scot Kersgaard, “GOP-Tea Party Favorite Maes Wants it Both Ways on Abortion,” *Colorado Independent*, May 27, 2010, <http://coloradoindependent.com/54348/gop-tea-party-favorite-maes-wants-it-both-ways-on-abortion>.