

Personhood and the Debate of Abortion

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I. Introduction

A woman in Texas worked diligently to keep her family afloat from a young age. Her name was Yeniifer (Yeni) Alvarez-Estrada Glick. She helped support her mother and her siblings. Eventually, she married and moved in with her husband. Together they wanted to start their own family but Yeni struggled with high blood pressure and diabetes. So, her pregnancy was a high risk. She began having many difficulties throughout her pregnancy. Throughout visits to her hospital, Yeni was never advised or informed of an abortion. The overturning of *Roe v. Wade* allowed doctors to perform abortions in the case of an emergency, but doctors could be punished if the procedure is considered unnecessary. One night Yeni was extremely sick, and she was taken in an ambulance where her heart rate declined. Compressions were performed but her body was in awful shape. In the ambulance it was decided that the doctors should remove Yeni's baby in an attempt to save it. Yeni's health was in complete decline which affected her baby as well. The incident resulted in the death of both individuals. Could the doctors, who never advised Yeni of an abortion, be to blame? (Taladrid 2024)

If the fetus were to be granted legal personhood, the abortion debate in the United States would change. This paper discusses how abortion arguments become complicated if the notion of a fetus as a person is considered. Would the 14th amendment as it pertains to the notion of personhood be working in favor of the anti-abortion argument? Would all arguments in favor of abortion no longer be valid if personhood was granted to the fetus? Many argue that abortion is simply a medical procedure but, if the fetus is granted personhood the procedure could be legally classified as murder. In addition to the discussion of personhood for the 14th amendment, the paper also analyzes different religious perspectives on abortion. In the paper, timelines like fertilization, heartbeat, and later in pregnancy would be analyzed in order to demonstrate the fetus' lifespan. This research consists of three sections: women's rights, biology, and religion. To close the analysis, the idea of personhood is explored in order to understand how it may play a role in the argument of abortion. Ultimately, it is concluded that personhood only further complicates the debate about abortion and is not a helpful lens of analysis.

Women's Rights

To begin, this section addresses women's rights and control over one's body in terms of abortion. In particular, I draw on an argument from Judith Jarvis Thomson—a philosopher of ethics and metaphysics who in the 1970s wrote extensively on the issue of abortion – to help readers visualize women's rights in the case of pregnancy.

Abortion is a medical procedure available to women that wish to terminate a pregnancy. A medical procedure should be available for all people to choose. With the overturning of *Roe v. Wade*, abortion is banned at the federal level in the United States. Every state is able to create policies pertaining to the issue but, the banning of abortions is a loss of control for many women due to many states' restrictive laws. This loss of control is extremely dangerous and frightening. Leading up to and during pregnancy, a number of incidents may occur. This includes rape, a medical emergency, financial struggle, and more. When incidents of rape occur, the woman has no say in her pregnancy. Therefore, there should be no obligation for her to sustain that baby.

When a medical emergency occurs, there is a lack of safety for the pregnant woman. She should not be required by law to risk her life for another being. Her life is important and when an abortion ban restricts the rights of a woman, her life may be at stake. Finally, in the cases of financial struggle, a woman may decide that her baby would not be entering the appropriate living conditions. If a woman were to lose her job, have a low income, not have a proper living space, or any other financial struggle, her baby could suffer. This is why having the right to choose is crucial. A woman should have the ability to make the proper decision for her child.

In cases of medical emergency, a woman holds the right to save her own life. Although it is true that every individual has the right to life, no one should have to go out of their way to help save another person's life. Each person should have the ability to make choices based upon their own morals but restrictions prevent women from making decisions about their body. Judith Jarvis Thomson used the example of a kidnapping in her

research. In this situation, an individual has been attached to a patient who is ill. They are told that in order for the patient to remain alive, they cannot disconnect. Later on, the individual is told that disconnecting would still lead to the death of the patient but that staying connected would result in their own death (Thomson, 1971). When a mother is informed of complications during pregnancy that may result in her death, a decision needs to be made: as either her own life or the life of her child.

Thomson was a philosopher who wrote on the ethics of various complex topics. Her most well-known research was on the topic of abortion. In her paper, *A Defense of Abortion*, Thomson has a strong argument in terms of medical emergency and rape. She makes it clear that when the rape of a woman results in pregnancy, she had no control over her body. Therefore, a fetus should not have a claim to her body. Thomson explains that no one should have to sustain another person: choosing to, is simply a kind gesture (Thomson, 1971). In the case of a medical emergency, a woman is choosing between her own life or the life of a fetus that she does not know. Why should women be forced into giving their life for a fetus that cannot survive without the help of another person? The answer is simple: she should not have to. But, a woman's lack of rights is often justified with religious values and arguments.

Religion

Women deserve the right to control their own bodies and those rights should continue being protected when abortion is involved. Although everyone has a right to their own values, religious arguments should not take effect on a pregnant woman's right to her own body.

Abortion arguments based in religion cannot be justified in the United States. Granted by the first amendment, all citizens of the United States have freedom of religion. This freedom also applies to laws established in the country. Our laws cannot be structured so that they are respective of a certain religion (National Constitution Center, n.d.). But many religions, especially the Catholic faith, utilize their beliefs to justify arguments against abortion.

Protestant and Catholic Americans tend to oppose the legalization of abortion (Lipka, 2022). At a Catholic Church, I noticed a poster where Jesus was holding a dead baby. He appeared very sorrowful and this poster was representing the Catholic view of abortion. Many religions value the life of a person, so labeling the fetus as a person would strengthen arguments coming from religious values, especially since the portrayal of abortion in religious contexts is very alarming. Abortion goes against the Catholic religion's values and they hold the right to that belief because every individual in the United States has freedom of religion, which is the exact reason to have a choice in this procedure. Laws should be reflective of the fact that not every person has the same views.

Americans have the ability to follow any religion of their choice, so although, for example "the [Catholic] Church has affirmed the moral evil of every procured abortion" (USCCB, n.d.), this statement cannot be used to justify the legality of abortion rights. Decisions in government will affect all citizens and therefore cannot be argued with the help of religious values. Enforcing laws that stem from religious beliefs opposes rights provided by the Constitution.

Voters aim to support certain laws, qualities in a president, and other government officials that will benefit their own beliefs. For example, data has shown that many religious voters have chosen to vote for former President Trump because he will push ideals that align with their religious beliefs (Jack Thompson, 2022). Everyone has a right to their own opinion but our legal rights and following the structure of government is also important. The United States cannot shift to abide by religious values. Arguments based in anatomy and physiology can serve as a common ground, whereas religious arguments don't apply to all people. In a courtroom, biological arguments can be used.

Biology

Unlike religion, biology is applicable to everyone. It is rooted in facts which is why biological arguments are so highly valued in terms of abortion. This section explores the stages of pregnancy and analyzes how the different stages change perspective on abortion. At the end of this section, I discuss a court case in Alabama. In this case a decision was made on the legal significance of embryos. This case is an example of how embryos may be viewed at a legal standpoint.

In order to properly analyze the argument of biology, it is important to understand the phases of the fetus. To begin, the stage of fertilization is where the egg and sperm cells have first met. It is a cluster of cells called the zygote, and this cluster develops 2 weeks after the woman's last period (Mayo Clinic, 2022). Eventually at the 5th week mark, the fetus' nervous system, heart, and lungs begin to form (Mayo Clinic, 2022). The fetus is the size of a poppy seed (NHS, n.d.). Many states have instituted an abortion ban past the six week mark of pregnancy. At the 6 week mark, the fetus' heart and brain are still developing (Mayo Clinic, 2022). Its size has been compared to that of a pea (NHS, n.d.). At 12 weeks, the fetus has taken a more human-like form and its intestines have developed (Mayo Clinic, 2022). At this point, it has become the size of a plum and the

first trimester of pregnancy is ending (NHS, n.d.). Moving toward the 24th week of pregnancy, the fetus is capable of surviving outside of the womb. Its size is similar to the length of a corn cob (NHS, n.d.). Finally at 38 weeks, the baby is considered full term. It is the same length as a stick of rhubarb (NHS, n.d.).

ZYGOTE (Wikipedia, 2024):



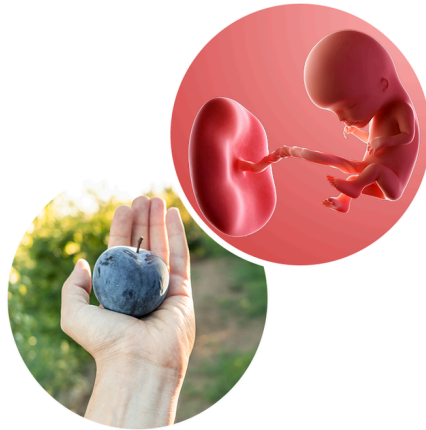
5 WEEKS (NHS, n.d.):



6 WEEKS (NHS, n.d.):



12 WEEKS (NHS, n.d.):



24 WEEKS (NHS, n.d.):



WEEK 38 (NHS, n.d.):



Based on a survey, 96% of biologists from over 1,000 academic institutions have reported that they believe life begins at the stage of fertilization. Scientists have researched and agree that cells are living, and a zygote (the fertilized egg) is a cluster of cells. Therefore, this aligns with the view that life begins at conception (Jacobs, 2021). But, other arguments have suggested that abortion should no longer be allowed past the 6 week mark because the heart has begun to develop. States like Iowa, South Carolina, Georgia, and Florida have made abortions illegal after 6 weeks of pregnancy (The Guardian, 2024).

The 24 week mark of pregnancy is when the fetus has the ability to survive outside of the womb. At this stage I believe an abortion would be morally wrong. If it can survive independently it should be given rights to its own body the same as any other human. It is no longer dependent on the life of another person. This is where I most definitely agree with limitations on abortions.

In February of 2024, an Alabama court case ruled embryos as children. In this case, many parents had undergone the process of in vitro fertilization (IVF) in order to better the chances of conception. IVF is a process where a female's egg is removed and fertilized with sperm (the fertilized egg is referred to as an embryo). A facility was storing the parent's fertilized eggs, but this facility was held at a hospital. One of the

hospital's patients entered the unguarded facility and removed the stored embryos. Since the embryos must be frozen when stored, the cold burned the patient's hand causing them to drop the embryos. The parents filed a lawsuit against the facility due to the incident. The Supreme Court of Alabama decided to rule the embryos as children and the parents won the case (Justicia US Law, 2024). The embryos were protected as if they had been living children under law. So, this case raises questions about the personhood of an embryo. The court was able to rule the case in favor of the parents due to the "Wrongful Death of a Minor Act." This act includes the rights of unborn children. It allows parents to bring cases to court where a minor was killed due to the actions of another (Justicia US Law, 2024). Gaining an understanding of the stages of pregnancy allows us to gain clarity on when a fetus has formed into a more independent being. At the 24th week of pregnancy, a fetus has the ability to survive outside of the womb, so at this mark it has the potential to be considered a person.

Personhood:

A fetus eventually develops into a fully functioning child at 24 weeks of life. Since killing a child would be wrong, this baby can be considered an individual with qualities of personhood. Personhood can be defined in this section as an individual who can comprehend things, communicate with others, and play a role in the world. It is important to define personhood in order to analyze its effect on the abortion argument.

The equal protections act is enforced through the 14th Amendment of the United States. It gives every citizen of the U.S. the right to protection under the law (Equal Protection Clause, 2024). No one can be discriminated against. Since all people in the United States have this protection, how does a fetus fit into this equation? If a fetus were to be granted personhood, should they not be protected under the 14th amendment? I believe personhood would grant a fetus those rights as an individual. Then abortion could be considered murderous under law, except the 14th Amendment specifies that those protected under the law were to be born or naturalized in the United States. Fetuses have not yet been born. So should the amendment be changed, or should we use this as a way to justify that a fetus is not a person? This is all dependent on what is considered characteristics of personhood. If a fetus has an impact on the world around it and is capable of utilizing legal rights, then it should be protected under the 14th Amendment.

In order to understand how personhood takes an effect on the argument of abortion, personhood itself must be understood. There must be some clarity in its definition so that we can see if a fetus has personhood. If it can be decided that a fetus does have personhood, arguments for and against abortion may change. My argument deals with law. Legal personhood can be defined differently than moral personhood. The purpose of the law is to give order and structure.

Sometimes, we think differently than what the law tells us is the right thing to do. Since morality should inform the law, moral personhood is discussed in the research. Therefore, talking about moral personhood can help us better understand what the law should do. Because our morality is so complex, we need the ability to talk about it so we can have more just ways of creating the law.

Personhood can be described as having the capacity to hold control over oneself. It is to have beliefs and thoughts (Stanford Encyclopedia of Philosophy, 2020). When an individual can interact with the world around them, it shows that they have the capacity to be considered a person. The ability to hold values and participate in surrounding communities contributes to one's personhood (Stanford Encyclopedia of Philosophy, 2020). The legal definition identifies personhood utilizing four variables: 1. personification of a set of norms, 2. status or role, 3. legal capacity to hold rights and bear utilities, and 4. finally subject of rights. The personification of a set of norms is the concept that an individual has rights given to them by the law. Status or role is the idea that every person has a part to play in society – we all contribute. Legal capacity to hold rights and bear utilities is the concept that all people can benefit from the rights they are given because they also have responsibilities in society. Finally, a subject of rights is defined as someone who has the ability to hold rights (Whittaker, 2022). Moral personhood pertains more to the impacts we have socially, whereas legal personhood pertains more to the rights we have as individuals. Perhaps, when we have impacts on others, we can be considered individuals who hold rights.

At 24 weeks, the fetus is considered viable, meaning it is able to survive outside of the womb. This opens the door to more discussion regarding limitations on abortion. This 24-week mark would then grant the fetus its independence. Since it is no longer reliant upon another individual to survive, I would consider the fetus an individual. A woman should have control over a fetus that she sustains. It is connected to her body. It affects her health, lifestyle, choices, and her finances. As long as the fetus depends on her, she should have a say on its life.

How has society shaped independence and granted privileges? At 16 years old, a person can legally obtain a driving license. This is a step in the direction of independence. The voting and drinking age in the United States is 18 years old because at 18, an individual is considered an adult. But, why? Why is 18 the age where a person is considered capable of responsibility and freedoms? It is said that at 18 men could be drafted to war (QRIUS, n.d). Research has shown that at age 25, the brain is fully developed. So, why aren't privileges

granted at age 25? Should people only be considered adults when they reach the age of 25? The word adult is defined as someone who is fully grown or developed. If your brain is not developed yet, I believe you should not yet be considered an adult.

Personhood can be argued in a variety of manners. There is no single answer, which leads to the conclusion that there cannot be a clear answer for how personhood affects abortion and its arguments. The argument can change or vary, so it can be described and explained. But, never can a single conclusion be identified. Abortion and all of its complexity cannot lead to a clear answer. The argument will forever be a cycle of uncertainty, where our role is to attempt to understand it.

II. Conclusion

A woman's rights, religion, and biology are all utilized in the abortion debate. Abortion is an extremely complex subject and all of these subjects continue to raise many questions, so the lines remain blurred. As a result of such uncertainty, the addition of personhood has been analyzed in these arguments. Although this addition can provide clarity in some contexts, it still does not produce a clear answer. Personhood can have many definitions and similar to abortion, may never be agreed upon. This analysis has provided an additional perspective and understanding of abortion's complexities.

There are various types of arguments regarding abortion and a fetus' personhood, yet there is still no clear answer. Is it possible that fetuses at the 24-week mark of pregnancy could be considered for rights under the 14th Amendment? The 14th Amendment was developed in order to grant slaves and minorities access to rights as citizens of the United States. It specifically applies to people "born or naturalized in the United States." So, there is not much clarity as to how it may pertain to abortion and unborn children. This amendment could be changed so that it grants fetuses more rights under the Constitution. But, it could also be left alone and solidify that fetuses do not have a clear definition of their rights. Although unborn, the fact that they could be born may serve as an argument for their protection. A fully formed child should be protected, since it can survive independently. But, this idea must be supported under law for a 24-week old fetus to hold Constitutional rights. Then, abortions up until the 24-week mark should be allowed due to the fetus still being dependent on the mother's body.

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