

Reconstituting the Middle: Personhood Rhetoric in Discourse and Law

by

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ABSTRACT

Treating the Pro-Life Movement as a monolithic entity creates a blind spot regarding the cognitive effect of the fetal personhood rhetorical framework. This study applies an interpretive lens, using legal and discourse analysis as tools, to provide a critical analysis of personhood laws and web content to shed light on how linguistic patterns construct, and are informed by, worldview. Examining variations in proposed Human Life Amendments—and asking how, or if, proposed bills achieve their specified aim—reveals tension in state and federal jurisdiction of abortion regulations. It also exposes conflict concerning tactical preferences for attaining fetal personhood and ending abortion that are useful to differentiating the Pro-Life and Personhood Movements.

Framing and discursive practices of the Personhood Movement reflect a ‘black and white’ mentality and an overly-simplified worldview. Movement cognition is shaped by patterns of omission and exclusion, inclusion, repetition, troubling phrases, and the power of labels. The linguistic choices demonstrate, constitute, and reinforce the dominant narratives of the movement and are integral to advocacy, praxis, and legislative efforts. While the struggle to pass personhood-compliant legislation has not been successful, the rhetorical practices and representational framework of the Personhood Movement have succeeded in altering the national discourse surrounding beginnings of life and abortion. The extreme views of the Personhood Movement reconstitute the middle—making tactics of the mainstream Pro-Life Movement seem moderate and reasonable by comparison, which allows dangerous legislation to slide by under the radar.

Keywords: Personhood Movement, Human Life Amendments, discourse analysis, legal analysis, fetal rights, women’s rights

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CHAPTER 1

INTRODUCTION

“We forthwith acknowledge our awareness of the sensitive and emotional nature of the abortion controversy, of the vigorous opposing views, ...and of the deep and seemingly absolute convictions that the subject inspires. One’s philosophy, one’s experiences, one’s exposure to the raw edges of human existence, one’s religious training, one’s attitudes toward life and family and their values, and the moral standards one establishes and seeks to observe, are all likely to influence and to color one’s thinking and conclusions about abortion.”

Justice Blackmun, *Roe v. Wade* (1973) majority opinion

Introduction

In the majority opinion for the landmark Supreme Court case, *Roe v. Wade* (1973), Justice Blackmun observed that the Constitution neglects to define the term “person.” The state of Texas contended that a fetus is a person and a citizen, with a right to due process and equal protection. The Court did not agree and, after enumerating all mention of the word person in the Constitution, notes “in nearly all these instances, the use of the word [person] is such that it has application only postnatally. None indicates, with any assurance, that it has any possible pre-natal application” (*Roe v. Wade*, 1973) This has not deterred the personhood faction of the Pro-Life Movement, which holds the sincere conviction that, from the moment of fertilization, the zygote is deserving of rights equal to that of the woman carrying it. The Personhood Movement believes that the right to life is paramount and must be protected throughout all stages of development; to achieve this goal, they seek to pass a Human Life Amendment—which seeks to redefine

life, and the protections associated with being a person, as starting from the moment of conception—to the United States Constitution.

Activists “simultaneously create, are constrained by, and use law” in constructing their legal consciousness and the narrative surrounding it (Wilson, 2011, p. 455). There is a clear “social politics of fetal representation” (Oaks, 2000; Sanger 2008; Sanger, 2012a) and the very act of describing something as a narrative or a story may imbue it with myth-like qualities (Potter, 1996; Sanger, 2008; Wells, 2012; Madrazo, 2014). Legal consciousness, operating in the socio-political domain, contours the way movement activists interact with others to explain, justify, and promote belief systems and agendas.

Labels and narrative play a significant role in the legal debate surrounding personhood because they determine the frame through which the discussion takes place (Saurette & Gordon, 2013; Madrazo 2014). Strategically, controlling the narrative and the frame through which the conversation on abortion and debate about personhood are interpreted carries considerable power. How life is understood, and when life is understood to begin, affects how we understand the cast of characters in these discussions. Who is depicted as a protagonist, who is depicted as the antagonist, the explanations used to assign roles, responsibility, and blame, as well as determine socially acceptable resolutions all rest on the construction of the life narrative ideograph (Madrazo, 2014, p. 331; Langford, 2015).

This study offers a glimpse at the Personhood Movement—their discursive and rhetorical practices as well as their legislative efforts and activist communications—applying an interpretive lens. It uses legal and discursive analysis as tools to provide a critical analysis in order to shed light on how speech patterns construct and are informed

by worldview, and how this affects legislative and community activism for advocates of personhood. The Pro-Life Movement is often treated as a monolithic entity in research and literature—this creates a blind spot regarding the political effects of the personhood discursive frame. The goal of this study is to offer a rigorous examination of how the strategic representational practices of the Personhood Movement enables successes in the larger Pro-Life Movement by asking: is there an evolution of the language of personhood bills and fetal representation over time? Is there a goal beyond the ratification of a Human Life Amendment? Why keep striving towards a goal many believe to be impossible or undesirable?

The Personhood Movement is distinguished from the mainstream Pro-Life Movement based on legislative agenda. The Personhood Movement has a singular goal of establishing constitutional personhood at the state and federal level. The mainstream Pro-Life Movement deploys a greater array of tactics, including incremental tactics, bills containing exemptions, and bills establishing indices of personhood in domains other than constitutional law. Personhood groups proudly identify as such—their writing also very clearly criticizes the mainstream Pro-Life Movement and makes explicit which organizations they consider to be allies and which organizations they consider to be guilty of capitulation and hypocrisy. (A more nuanced discussion of both factions of the movement and tactics deployed by each is the topic of Chapter 3).

The following sections introduce the importance of representation, discourse, and framing of social movements in general, before moving to a detailed discussion of the representational trajectory of the Pro-Life Movement. I outline some of the disagreement among researchers about framing practices of the movement and contend that much of

the disagreement is due to the mistaken belief that the Pro-Life Movement is a homogenous entity. Next, through recognition of the personhood faction as distinct from the mainstream Pro-Life Movement, I argue that, even in the absence of legislative success, the discursive practices of the fetal Personhood Movement are cause for concern. I contend that the extreme rhetorical practices of the Personhood Movement work to reconstitute the middle in the debate surrounding start of life, legal personhood, abortion, and women's role in these conversations. I close with an outline of the remaining chapters.

Representation, Discourse, and Framing

Representational and discursive practices matter because they dictate frame. Framing is critical to the success of a social movement as it has a role in defining and co-constituting ideologies associated with the movement, as well as the power to mobilize activists around a cause (Johnston, 1995; Benford and Snow, 2000; McCaffrey and Key, 2000). Frames work to situate the movement so that it appears to be culturally and socially relevant—both important factors in establishing legitimacy (McCaffrey and Key, 2000, p. 41). The language selected by an individual or movement, and the patterns of speech, can be a powerful indication of worldview. Descriptions and categorizations, central to discourse, are powerful construction tools. In building movement frames, it is critical to bear in mind that descriptions and categorizations are also constructed (Johnston, 1995; Potter, 1996, p. 97). This vantage point allows for an examination of the importance of descriptions, and their subsequent roles in categorization, in order to disaggregate the ways in which they are “partial, related to interests, or work to obscure operations of power” (Potter, 1996: p. 69; Hawkesworth, 2005). For example, a

description may portray something as completely normal or unexceptional, thus legitimizing it as reducing the attention paid to it. Conversely, description and categorization can be used to highlight the novelty of an object or act and draw attention to it. This argument rests on the presupposition that words matter. Word choice matters. The ways in which we compose our sentences, narrate our stories, and build our arguments affect the visual images called into mind, the emotions evoked, and how our message is received. This is especially true of the abortion debate where, “the use of emotional and psychological experience to relay the truth of abortion is not neutral; it *does* something, namely it holds the power to naturalise, in this instance, a profoundly political message” (Millar, 2016, p. 507).

Representation, Framing, and Discourse in the Pro-Life Movement

Some scholars tracing the trajectory of representational, discursive, and framing practices of the Pro-Life Movement focus their attention to the influence of religious beliefs, while others examine the shift towards a more pseudo-scientific, ‘woman-friendly’ approach. These findings and explanations appear contradictory if the Pro-Life Movement is viewed as homogeneous because this homogeneity results in a blind spot regarding the cognitive effect of the fetal personhood linguistic framework. The Pro-Life Movement is not a monolithic entity—there is a disagreement surrounding fetal personhood and compromise (Right Wing Watch, 2015). The personhood ideograph represents a tactical shift for the Pro-Life Movement in which they try to give the fetus a legal presence—and protection under the law—by dropping the modifier ‘fetal’ in their discussion of personhood (Langford, 2015). However, it is wise to acknowledge

“applying or denying the label of “person” prenatally is politically fraught for both sides” (Madrazo, 2014, p. 331).

The religious framing of the debate on abortion has received sustained attention (Lake, 1984; Maxwell, 1994; Sanger, 2012a). Research demonstrates a strong salvation motive among women who had an abortion at some point in their lives before having an attitudinal conversion and becoming pro-life direct-action activists (Maxwell, 1994). Similarly, Randall Lake (1984) utilizes a logological approach to further his argument that anti-abortion rhetorical practices rely heavily on guilt and draw from Christian notions—particularly the idea of the descent/fall of man—to marginalize and victimize women while positioning “childbearing and legislating against abortion as twin paths to Redemption” (p. 426). He continues:

Examined in this light, the anti-abortionist attempt to adopt a Human Life Amendment becomes more than a simple legal attempt to extend Constitutional rights to the fetus by wedding these rights to biological determinants...such an amendment symbolically reaffirms the original theological/deontological Covenants of Thou-Shalt-Nots, ensuring that the prescribed punishments for Disobedience will be enforced by the state, thereby making Redemption possible (1984, p. 436).

Lake’s theories may more adequately describe the Personhood Movement than the mainstream Pro-Life Movement or the Pro-Life Movement as a whole, although he never explicitly acknowledges as much. By recognizing that the Pro-Life Movement is not a monolithic entity, it becomes possible to parse out the typographies of pro-life workers—one such effort categorized them into “purists” and “pragmatists” with

“religious/instrumental” and “symbolic/instrumental” motivations (Maxwell and Jelen, 1996).

Other scholars contend that, in relaying “the truth of abortion” pro-life groups have sought to move away from the hyper-religious rhetoric and motion to reframe their arguments in quasi-feminist terms to broaden appeal and help destigmatize the more radical aspects of the movement; this reframing involves the discursive and representational practices of the movement increasingly embracing neoliberal buzzwords and pseudoscience to shape anti-abortion rhetoric (Roth, 2000; Siegel, 2008; Hughes & Wyatt, 2009; Halva-Neubauer and Zeigler 2010; Leinwand, 2015). There is a strong argument that the Pro-Life Movement’s attempt to restrict abortion through a “women-friendly” approach has been largely successful. Through a close reading of legislative reform advocated for by the Pro-Life Movement and an analysis of the visual imagery they deploy, Glen A. Halva-Neubauer and Sara L. Zeigler (2010, p.101) contend that the rhetorical and representational practices of the movement have shifted from viewing the mother and the fetus as adversaries with conflicting interests to depicting the maternal-fetal bond as central to the debate in a manner that undermines key talking points of the Pro-Choice Movement; the rebranding of the relationship as being entirely without tension enables legislative efforts that effectively promote indices of fetal personhood. This notion is supported by scholarship on measures including fetal protection laws (Daniels 1993; Duden, 1993; Henricks, 2015; Johnsen, 1986; Krauss, 1991), feticide laws (Crist, 2010; Daniels, 1993; Schroedel, 2000), stillborn birth certificates (Sanger, 2012b), informed consent laws (Seigel, 2008; Daniels, Ferguson, Howard, & Roberti, 2016), and even more restrictions.

In crafting the fetus as a separate entity, and as a victim of ‘the crime of abortion,’ pro-life activists can work with the pretense of speaking for the fetus, enabling them to appear less radical and punitive than they would if they were solely campaigning against the interests of the woman (Lake, 1984, p. 434). Multiple scholars note the role of technology in detaching the fetus from the woman, humanizing the fetus, and emboldens pro-life activists to paint abortion as murder (Sanger, 2008; Wyatt and Hughes, 2009; Millar, 2016). Similarly, pro-life discursive tactics and framing strategies have developed the concept of ‘foetocentric grief’ in an attempt to sway the abortion debate (Millar, 2016). The shift in pro-life advocacy from fetus-centered arguments, or arguments based on the presupposition that the woman and fetus have an adversarial relationship, to one in which the needs and interest of the woman and fetus align marks an important social, political, and legal development. It is possible that a discourse in which fetal personhood played a prominent role—either as an explicitly stated in political legislative efforts and conversations or an implicit assumption in the laws and debates animating their claims—never went anywhere, but merely changed in representation and strategic deployment (Halva-Neubauer & Zeigler 2010, p. 102).

Intervention and Argument

This analysis offers a look at the relationship between narrative, law, and practice with a greater recognition of individual differences within the Pro-Life Movement by recognizing that the movement is not entirely homogenous and that there is a considerable divide over issues of compromise, religiosity, and the desirability and strength of the fetal personhood argument. I am drawing attention to a division acknowledged and remarked on by members of the Personhood and Pro-Life Movements.

The prime tactic of the Personhood Movement is the effort to pass a Human Life Amendment, establishing personhood and start of citizenship rights and protections, from the moment of conception—the rhetorical practices and discursive techniques of the movement reflect the singularity of focus and absolutism of the movement goal. The mainstream Pro-Life Movement, in an effort to broaden appeal, adopts a wider variety of tactics, approaches, and discursive practices, as noted by the extant literature on pro-life activism.

Across macro, meso, and micro levels and sites of analysis, the discursive and framing practices of the fetal Personhood Movement are distinct from their pro-life counterparts. The rhetoric of the Personhood Movement reflects a ‘black and white’ mentality and an overly simplified worldview. The linguistic choices demonstrate, constitute, and reinforce the dominant narratives of the movement and are integral to advocacy, praxis, and legislative efforts. Repetition, patterns of omission and exclusion, inclusion, troubling phrases, and the power of labels all interact to shape and enable movement cognition. This is significant—and I argue dangerous—because the use of discursive and framing tactics of the fetal Personhood Movement contribute to a consciousness lacking in nuance or consideration of shades of grey; a consciousness in which women are the most notable omission; a consciousness that has completely erased the possibility of the debate it claims to want to create space for, because it has linguistically eliminated from its consciousness the vocabulary of any contradictory perspective. This is a consciousness that is both socially and politically dangerous and contributes to a range of actualized behaviors on a spectrum from benevolent sexism to hostile misogyny—impacting the lived experiences of real human beings, albeit female

ones. I argue that, even in the absence of legislative success, the mindset encapsulated in Human Life Amendments and the Personhood Movement is capable of doing considerable and lasting harm.

I examined proposed Human Life Amendments from the ten years following *Roe v. Wade*, contemporary federal measures, and state efforts to establish personhood. Special attention and importance were given to language and framing, asking how—and if—the proposed bill would achieve its stated aim. What I found is that the laws, as written, are more symbolic than legally instrumental. They are not written in a way that is enforceable. Examining variations in laws reveals tension in state and federal jurisdiction of abortion regulations and conflict concerning the preferred tactics for achieving a Human Life Amendment and ending abortion; the variation differentiates the Pro-Life and Personhood Movements and can be used to track the relative success of movement frames.

While the legislative effort to pass personhood-compliant legislation has not succeeded in passing an amendment at the federal or state level, the rhetorical practices and representational framework of the Personhood Movement has succeeded in altering the national discourse surrounding start of life and abortion. The extreme views of the Personhood Movement work to reconstitute the middle—making some of the tactics of the mainstream Pro-Life Movement seem sensible or moderate by comparison. This allows for dangerous pro-life legislation to slide by under the radar.

The personhood effort is foundational to the success of the Pro-Life Movement; therefore, it is critical that the representational, discursive, and framing practices of the Personhood Movement are understood, challenged, and undermined. Recognizing that

poor, rural, minority, indigenous, and otherwise marginalized women are disproportionately impacted by pro-life legislation, I call on supporters of the choice framework to engage in rigorous self-analysis and to recognize areas in which an over-willingness to compromise has excluded certain bodies and a fear of losing ground has caused activists to shy away from working to proactively expand rights and extend greater protections to marginalized groups. The choice paradigm is insufficient, as access to resources is a requisite for choice (Smith, 2005). A full-throated endorsement of women's autonomy and rights must occur in order to remedy the disparity of convictions between the Pro-Choice and Pro-Life Movements and counter the influence of personhood rhetoric.

Chapter Overview

The next chapter, Chapter 2, provides an explanation of the methodology and what I mean by 'an interpretive lens, using legal and discursive analysis as tools, to provide a critical analysis.' It includes a discussion of my process, data generation, and a detailed description of the coding system, as well as an acknowledgment of my influences and assumptions—including more detail on my understandings of the importance and power of language. The chapter concludes with an honest reflection on my positionality and intentions.

Chapter 3 introduced the concept of personhood in greater detail. It explains incremental strategies of the Pro-Life Movement and immediate strategies of the Personhood Movement and provides a brief overview of the effort to pass a federal Human Life Amendment. I argue that the Pro-Life Movement is not a monolithic entity and does not necessarily self-identify as a monolithic entity, despite being treated as such

in research. I provide evidence of the schism surrounding compromise and fetal personhood. I explain the different approaches taken by each faction and map out major players within each faction. I conclude by foreshadowing the danger of fetal-personhood: namely, it reconstitutes the middle and makes the mainstream Pro-Life Movement appear reasonable.

Chapter 4 examines proposed Human Life Amendments from the ten years following *Roe v. Wade*, contemporary federal efforts to establish personhood, and state proposals, with special attention to language, and framing, asking how—and if—the proposed bill would achieve its stated aim. This section analyzes, in broad strokes, the similarities and differences among the proposed bills to ask what can be ascertained about the condition of the larger Pro-Life Movement, about state’s rights and federal jurisdiction, as well as state’s as a testing ground. I contend that the laws, as written, are more symbolic than legally instrumental because they are not written in a way that is enforceable—however, I do not mean to undermine my argument and imply that legal enforceability is the only way a bill can have an effect, symbolism can be emotionally and politically instrumental even if it is not *legally* instrumental. Examining variations in laws reveals tension in state v. federal jurisdiction of abortion regulations and conflict between the mainstream Pro-Life and Personhood Movement, especially concerning the preferred tactics for achieving fetal personhood and ending abortion.

Chapter 5 looks at specific linguistic practices of the Personhood Movement in legislation and in the content of fetal personhood websites, utilizing legal and discourse analysis as tools to reveal that the representational and framing practices of the fetal Personhood Movement reflect an oversimplified view of the world expressed through

black and white position statements, efforts to ironize opposing viewpoints, and exclusions of factors that would indicate the existence of grey zones or the need for compromise. This analysis treats language as action to examine personhood's strategic deployment of particular discursive techniques, with consideration given to how linguistic choices reciprocally constitute and reinforce the narrative frames of the movement and are integral to advocacy, praxis, and legislative efforts. I work from the assumption that language is dynamic and acts to structure worldview to investigate the construction of language for the movement. Special attention is given to how accounts come to be represented as factual and how certain descriptions—such as that of the fetus—are reified, while others—such as that of the woman—are ironized.

Chapter 6 pulls the legal analysis and the analysis of rhetoric together to make claims about the Personhood Movement and their use of language: how they impact legislation, how they impact the larger Pro-Life discourse, and the role they play in reconstituting the middle. I emphasize that the polarization and extreme rhetoric of the personhood paradigm erases the middle from the conversation and shifts the entire debate to be more in-line with conservative ideologies; this is a paradigm in which the woman is erased from the consideration linguistically and legally. Here, I discuss specific pro-life victories and question whether or not they would have been possible political landscape that did not elevate the position of the fetus at the expense of the woman carrying it—suggesting this would not occur if women were re-centered in the conversation. I conclude by examining what can be done to bolster support of women's autonomy, explaining the ways in which pro-life victories unevenly affect marginalized women, and

call on supporters of women's freedoms to undermine the negative impact of the Personhood Movement on legislative action and socio-political discourse.

CHAPTER 2

METHODOLOGY

This thesis is a critical analysis through an interpretive lens, using discourse and legal analysis as tools to examine the development of the language and representational practices of the Personhood Movement as situated within the mainstream Pro-Life effort. Specific attention paid to the rhetorical practices associated with their legislative goal of passing a Human Life Amendment.

An Interpretive Lens

Interpretive research design is admittedly non-linear. Instead, it is an iterative-recursive process conceptualized as a hermeneutic circle where a researcher's a priori knowledge and the information produced throughout the design and research process are part of "iterative sense making" (Schwartz-Shea & Yanow, 2012, p. 56). As it is intricately linked with feminist methodologies, interpretive research entails engaging in constant reflexivity over the often-subtle intrusion of power hierarchies and hegemonies across domains studied and over one's own role within said hierarchies (Ackerly & True, 2010; 2013; Behl, 2016). Interpretive design asks us as researchers to critically reflect on extant categories, expands our understanding of what constitutes knowledge, and calls on us to bring to the forefront considerations of compassion and ethics (Ackerly & True, 2010, 2013). It further understands knowledge production as abductive, emergent, and context-driven (Schwartz-Shea & Yanow, 2012). It calls upon the researcher to be rigorously honest and "aware of the unconscious and/or unexamined assumptions that guide research and writing" (Townsend-Bell, 2009; p. 314).

I will unavoidably employ a frame myself as I cogenerate and interpret data throughout the research process: I am a research instrument (Schwartz-Shea & Yanow, 2012; Charmaz, 2014). Furthermore, vision is always partial and “complete, all-encompassing perception and descriptions are humanly impossible” (Schwartz-Shea & Yanow, 2012, p. 79). With this in mind, I have a responsibility to acknowledge the ways in which my belief systems and values will necessarily affect the knowledge I look for, produce, and relay. Furthermore, the intentions behind my research are shaped by my beliefs and values (Nagar and Geiger, 2007; Behl, forthcoming). As such, the following sections are intended to provide greater transparency regarding my research and design process, my scholastic influences, and my positionality as a researcher. My aim in expanding on this is to give the readers an opportunity to assess for themselves the trustworthiness of the knowledge claims I make (Shea & Yanow, 2012; Behl, forthcoming).

Process, Data Generation, and Coding

This research experience was hermeneutic, with the successive diameters shrinking, shifting, and focusing throughout the design, research, literature review, and drafting processes. This study is informed by a lifetime of conviction; three academic programs worth of knowledge, theories, and methodologies; years of research; and the often-brilliant scholarship of others. I clearly draw influence from my psychology training and believe that people act with motivation and intention. I further believe that the linguistic choices we make are powerful indicators of beliefs animating behaviors. Emily Wells (2012) explains “Language is action. Language is not only about things, it is used to do things” (p. 350). Description and categorization are powerful means of

accomplishing the action of language. An important consideration here is that descriptions are useful not only in constructing an account as factual and true, but also capable of undermining competing descriptions (Johnston, 1995; Potter, 1996). Language as action is a central theme of discourse analysis and, as such, language is essentially treated as data points to be examined (Wells, 2012; Charmaz, 2014). Increasingly, language and the study of narrative and fact construction are gaining prominence in the fields of social psychology, sociology, and ethnography as a legitimate research tools (Johnston, 1995; Potter, 1996; McCaffrey & Keys, 2000; Hughes & Wyatt, 2009; Wilson, 2011; Wells, 2012; Charmaz, 2014).

This study keeps in mind interpretive methodologies and feminist sensibilities as it pulls from discourse and legal analysis to examine the frames used by the pro-fetal personhood faction of the Pro-Life Movement in their legislative efforts and direct communication. Data was co-generated from two major sites: 1.) Human Life Amendment-style legislation introduced at the state and federal level during two periods after the 1973 Supreme Court holdings in *Roe v. Wade* (1973), and 2.) materials personhood advocates provide to supporters to shape and frame the way they discuss issues of abortion, personhood, and legislation.

Examples of federal legislation introduced into Congress during the 1970's and 1980's were selected to serve as 'model legislation' (Appendix A). This time period was selected because it represented a diversity of tactics towards achieving a common goal during the period immediately following *Roe v. Wade*. One of the systems of coding looked at how these bills would achieve their end goals of attaining legal personhood status for embryos and proscribing abortion. The bills from the 1970's and 1980's can be

aggregated into seven major but, at times, overlapping categories based on how the bill works to promote the personhood agenda: (1) bills making abortion strictly state, rather than federal, domain, (2) bills containing verbiage redefining “person”, (3) bills containing verbiage redefining “life”, (4) bills reaffirming the state’s vested interest in unborn life, (5) bills prohibiting the state or states from depriving human life from the moment of conception, (6) bills stipulating the constitution does not protect abortion—trying to undermine the penumbral logic of the Supreme Court’s decision in *Roe*, and (7) bills containing provisions specifically prohibiting abortion. I do not mean to imply that the categories were fixed or static, or anything more than tools for organizing and thinking about the data. Rather, conceptualizing the legislation in this manner served as a baseline for an analysis of more recent federal and state efforts to enact personhood legislation from randomly selected texts of proposals from federal bills from 2003 until the present legislative session (Appendix B), as well as contemporary citizen initiatives and state legislation (Appendix C). Analyzing data from these three sets of proposed bills created an exposure which provided a strong representation of the Personhood Movement’s legislative efforts and ensured a robust offering of rhetorical tactics across time and geography. This mapping revealed tensions between legally symbolic and legally instrumental laws. Furthermore, it demonstrated the differing approaches between pro-life and pro-personhood factions in the Pro-Life Movement and made visible the relative strength of each faction.

In analyzing the legal data set, laws were subject to multiple coding schemes. For the chapter on personhood in law, a main question was enforceability as well as if there was an actor upon whom this law could be enforced. To this end, bills were coded as

legally symbolic or legally instrumental. Essentially, I asked, could the bill be enforced as written, or would its enforcement require additional legislation? Would the bill succeed in establishing personhood and ending abortion, or was more legislation required to bolster the bill under consideration? A bill such as the Paramount Amendment, which reaffirms the paramount right to life vested in each human from conception on, would be coded as legally symbolic because it lacks enforceability, the ability to end abortion, or the language required to establish legal personhood. Coding a bill as legally symbolic as opposed to legally instrumental does not mean that a bill cannot have an instrumental effect in how we conceptualize start of life and abortion—my belief is that these bills greatest success is their unintended instrumental shift, or reconstitution, of what is considered the middle ground in the American abortion political landscape.

Additionally, each bill was coded for the actors involved: federal government, state government, women, private individuals, fetuses, God—although in the case of women, they were often coded as “omitted,” or not involved. Bills making note of the fetal/female relationship were also coded for later analysis. Bills were coded as containing no exemptions or containing exemptions, with sub-codes based on what type of exemption was allowed for. If bills specifically mentioned miscarriage, abortion, in vitro fertilization, or birth control, that was also noted for consideration in the analysis. After initial coding was complete, I turned to a closer examination of the differences between and within codes. For example, what additional coding occurred or disappeared with the shift in name from “Right to Life Act” to “Life at Conception Act,” and what were the rhetorical purposes that could motivate this change? Similarly, what claims could be explored about a data set that largely omitted the woman entirely or mentioned

her only in the role of mother, or someone upon whom the “unborn” experiences a “condition of dependency?” (For a demonstration of coding method developed for federal and state legislation, please see Appendices E and F.)

A second data set includes “how to” guides and other texts designed to alter the way supporters verbally advocate their stance, supplied by pro-personhood organizations. Examples include guides on how to change the language used to speak about abortion and personhood, position statements, and tips on talking to your congressman available on pro-personhood websites (Appendix D). The analysis involved a detailed reading and coding of all texts designed to create an intertextual dialog among the sources of data. (Lofland, 2006; Shea & Yanow, 2012). All texts were considered potential data points with a mindfulness towards understanding significance for the goals of the movement and the significance for the legal status of abortion, the fetus, and women as autonomous human beings. Coding was an iterative recursive process. The extant literature alerted me to themes to be attentive to, such as the presence of quasi-feminist or religiously charged language, and to possible coding schemes. However, the main factor influencing the coding was the language of the bills and the web texts included in the data sets. For example, it wasn’t until I read “7 Ways to Change How You Speak about Abortion” (Harold, 2014) that it occurred to me to go back through all my source texts and code for whether or not the text applied a gender to the fetus.

Coding schemes were developed to address the treatment of the fetus—as a child, as a citizen, as a dependent—and treatment of the pregnant woman—as a mother, as a woman, or as omitted entirely. Additional coding emerged through close readings and analysis of the texts concerned exemptions, invocation of legality, science (invoking or

belittling), the language of war and violence, oversimplification, and mention of technology (Appendix G). Often times a code became an umbrella code that was subsequently disaggregated into more nuanced ideas, or a combination of codes were better understood in relation to one another. For example, oversimplification as a code can be further divided into sub-codes including “Absolutism,” “If/Then statements,” “Either/Or Statements,” “Removing the middle,” “Specious comparisons”, and “Thou Shall Nots” (please see Appendix H for a selection of the “Oversimplification” coding umbrella). All texts were read and coded manually (for a digitized example of this process, see Appendix I) before coding data was electronically sorted. Coding in this manner enabled the analysis process to have greater fluidity in the application of labels and more appropriately reflect patterns of omission and exclusion, repetitions, either/or belief structures and labeling, to make visible part of the frame employed by the personhood faction of the Pro-Life Movement.

Influences and Assumptions

Framing analysis and interpretive design both desire to understand taken for granted meanings (Johnston, 1995; Schwartz-Shea & Yanow, 2012). Pro-life discourse in America is largely driven to affect legislative change (Sauette and Gordon, 2013). However, this is not the only significance of the discourse surrounding abortion rights and fetal personhood. Macro-discourse analysis and micro-discourse analysis of social movement texts—including readings aiming to comprehend the tacit understandings of the how and why behind social movement communications—allows for a dimensional mapping (Johnston, 1995). Furthermore, a recognition that there exists “a public-private continuum in which the audience and the scope of diffusion are important determinants

of what gets said” helps to develop a more nuanced recognition of pragmatic intent (Johnston, 1995, p. 223).

Footing and stake are important to any discussion of framing (Johnston, 1995; Potter, 1996). *Footing* concerns the relationship an activist has to the discourse in question and the distance that activist has from stakes in the discourse. *Stake* is the level of investment or interest in a discourse. *Stake inoculation* is a process whereby an activist deliberately crafts a discourse with descriptions intended to control or moderate perceptions of stake in the discourse in order to appear to approach from a position of neutrality. The processes through which accounts and aspects of discourse are selectively reified or ironized contribute to footing, stake, and interest management. To *reify* something is to regard it as true and valid; *ironizing* something is a manner of rejection through the questioning of veracity. Related to this is the concept of nominalization. On its face, *nominalization* is a technique that allows the activist to demonstrate neutrality; however, nominalization can be a powerful tool for obfuscation (Potter, 1996).

Equally important as what is said in a particular discourse is what is not said. As Potter explains:

One of the aspects of making any description is that it will pick out a particular range of phenomena as relevant and ignore other potential ones. This is the extended sense of ontological gerrymandering; one realm of entities is constituted in the descriptions while another is avoided (1996: p. 184).

The language that is not used is every bit as important as the language that is used because complex sets of motivations and considerations are bound up in these decisions.

In producing an account and trying to represent it as factual, correctly applying motivation and intent through psychological use of language can assist in legitimizing an account.

Positionality and Intentionality

The irony of a pro-woman, pro-autonomy feminist in a Social Justice and Human Rights program writing a paper on framing in the Pro-Life and fetal Personhood Movements is not lost on me. It would be dishonest to attempt to downplay my position and beliefs. Instead, I seek to be transparent about certain ‘ground rules’ I set for myself and endeavored to observe. I had to be particularly attuned to the possibility of distortions in my perception or interpretations (Lofland, 2006). I had to be discerning in my analysis to guard against “structuring attention” or “seeing only those things that are consistent with one’s assumptions and propositions” (Lofland, 2006).

This process also required making decisions regarding the use of language. Narrative and labels play a large role in abortion legislation and activism (Madrazo, 2014)—it would be foolish of me not to recognize my research as a potential piece of activism. Whether I used the phrase “pro-life” or “anti-choice” mattered. Whether I used the phrase “unborn,” “fetus,” “zygote,” “preborn child,” etc. *definitely* mattered. I aimed to balance respect for the opinions of those in support of fetal personhood with respect for my convictions. At the same time, this is not to say that I held all views in an equal light, only that I strived to fairly evaluate all views.

In discussing issues surrounding abortion, a mistake both sides make is failing to give proper attention to what the other side believes (Sanger, 2012a). It is therefore important that I acknowledge the arguments put forward by abortion opponents that

“Abortion ends the life of a living human embryo or fetus. Plainly, abortion kills a living being” (Paulsen, 2005, p. 196, emphasis original) and that life starts from the moment of fertilization and is deserving of protection during all stages of gestation. An appropriately nuanced discussion of the moral, biological, and philosophical arguments of this debate is beyond the scope of this research project—however, I still have an obligation to treat their view on the sanctity of life with due respect and understand it to be a belief held as sincerely as I hold my own.

The Pro-Life Movement is smart, strategic, clever, and highly dedicated to their cause. It is a mistake to simply dismiss the continued efforts of the Personhood Movement as “the definition of insanity.” I worked from the basic assumption that there is a reason, multiple reasons even, why the Personhood Movement persists in what appears to be a losing legal battle. At the forefront of my mind during analysis was a keen awareness that these groups *are not crazy*—they are purposeful. I endeavored to develop a deeper understanding of the relationship between narrative, law, and practice in the discursive and framing tactics of the fetal Personhood Movement juxtaposed to those of the mainstream Pro-Life Movement.

This was not intended as a piece of “gotcha” activism. I only used quotes pulled from websites where the individuals spoke on the record. Most materials were pulled directly from organizations’ websites or recorded interviews. The integrity of quotes and context—specifically, adequate context—was maintained. Anything that appears between quotation marks in this paper is pulled directly from such materials. It was critical to me that I present the Personhood Movement using their own words. That being said, the

interpretation is mine—I strived to compose a trustworthy analysis and a convincing argument, free of distortions.

CHAPTER 3

THE CONCEPTION OF PERSONHOOD

While the notion of fetal personhood was conceived prior to *Roe v. Wade* (1973), the Supreme Court hearings and subsequent publication of majority, concurring, and dissenting opinions mark when the idea fully implanted. Perhaps one of the most ominous moments of the oral argument came when Justice Byron R. White asked Sarah Weddington, the attorney for Roe, “is it critical to your case that the fetus not to be a person under the due process clause?... would you lose your case if the fetus was a person?” (1972, 14:30-16:45). The state of Texas argued before the court that they had a legitimate interest in protecting prenatal life, and some amici briefs filed with the court supported the notion that human life begins at the moment of conception. The court rejected this notion in the majority opinion, unequivocally stating that the word ‘person’ in the Fourteenth Amendment was not intended to encompass the unborn.

Yet, supporters of fetal personhood still turn to the word “person” in the Fifth and Fourteenth Amendment. Personhood organizations seek to reclassify when life begins from a legal standpoint by drafting and supporting laws which grant zygotes and fetuses full legal protection—independent of the woman carrying the fetus—from the moment of conception and at all phases of development. The driving logic is the belief that redefining personhood would guarantee the fetus privileges and immunities that could not be abridged without due process. Essentially, they seek to guarantee a fetus full rights and protections—potentially even greater rights and protections than that afforded to the woman carrying the fetus.

For this study, all legislation examined fell into the category of Human Life Amendments, at the state or federal level, supported by the Personhood Movement. Although a Human Life Amendment has failed to pass, their introduction into the national conversation is resulting in incremental success for the mainstream Pro-Life Movement (Pattinson, 2013). I contend one of the most significant contributions of the Personhood Movement is how their extreme, no compromise position has reconstituted the middle ground. A significant effect of personhood rhetoric is that it humanizes the fetus and shapes an environment in which deprivations of women's rights in the name of the fetus is considered acceptable.

This chapter is intended to outline the contours of the personhood faction of the Pro-Life Movement. By explicating the distinction between incremental and immediate strategies and providing an overview of the efforts towards passing a Human Life Amendment, I make visible a division in the movement. This schism is important because it demonstrates the fact that the Pro-Life Movement is not a homogenous, monolithic entity. Understanding this divide elucidates the manner in which the extreme rhetoric and legislative efforts of the Personhood Movement act to normalize damaging bills proposed by the mainstream Pro-Life Movement and draws attention to the reality that, while these two factions may engage in verbal sparring, their strategies work in conjunction.

Incremental and Immediate Strategies

In an attempt to undermine a woman's right to an abortion protected under the Fourteenth Amendment, pro-life activists have effectively utilized legislative efforts. A Guttmacher Institute report found that in the first few months of 2017 state legislatures

introduced 1,053 bills regulating reproductive health: 431 restricting access to abortion-related services (Nash, Gold, Ansari-Thomas, Capello & Mohammed, 2017). The vast majority of these efforts fall under the umbrella of incremental tactics (most frequently applied by the mainstream Pro-Life Movement), while a considerably smaller number fall under the umbrella of immediate approach tactics (such as Human Life Amendments, favored by the Personhood Movement, and the focus of the present study). This section provides greater detail on incremental and immediate strategies, the faction of the movement they are favored by, and criticisms of each.

Incremental tactics slowly chip away at or erode abortion rights, immediate tactics would outlaw abortion in one fell swoop. Some in the movement discuss these tactics as if they fall into two different taxonomies, others reject this dichotomy and view the approaches as falling along a continuum. Jay Rogers (2014), writing on behalf of Personhood Alliance recognizes six levels of strategy: (1) a compromised incrementalism strategy, (2) principled incrementalism, (3) personhood compliant laws that do not specifically proscribe abortion but achieve similar effects, (4) personhood compliant laws that redefine personhood through legislation, (5) abortion bans without exception, and (6) a constitutional redefinition of personhood. Abortion bans that include exceptions for the life or health of the mother and cases of rape or incest are classified as compromised incrementalism. The term principled incrementalism encompasses laws which have language making abortion more onerous to obtain but do not outright proscribe abortion or contain explicit exceptions—for example, parental notification and mandatory ultrasound laws. In this frame, one law could do considerably more than another to curtail the number of abortions but be viewed as compromised rather than principled.

The incremental approach towards eroding the right to an abortion and establishing fetal rights through personhood compliant laws, the main strategy of the mainstream Pro-Life Movement, has been quite successful, as can be seen by: fetal protection laws (Daniels 1993; Duden, 1993; Henricks, 2015; Johnsen, 1986; Krauss, 1991), feticide laws (Crist, 2010; Daniels, 1993; Schroedel, 2000), stillborn birth certificates (Sanger, 2012b), informed consent laws (Seigel, 2008; Daniels, Ferguson, Howard, & Roberti., 2016), mandatory waiting periods (Daniels, Ferguson, Howard, & Roberti, 2016), lawyer ad litem for fetuses (Oaks, 2000), and even more restrictions. These laws often work to reclassify the fetus as a person, not in constitutional law, but in other areas of law such as criminal or inheritance law. The reclassification achieved through these laws aids in shaping public opinion, enabling legislators to continue passing laws which make abortions more onerous to perform or obtain. Table 1 (next page) provides a mapping of the Personhood Faction and mainstream Pro-Life Movement, looking at major players within each faction and some of the tactics they deploy towards achieving their ultimate goals.

There are those within the Personhood Movement, such as Matt Sande of Pro-Life Wisconsin, who believe that the “incremental approach is not working — the number of abortions is climbing over time.” He continues, “we need to end this. We need to end surgical abortion, without exception, without compromise, without apology” (Wyler, 2013). In this view, any compromise, even for life and health of the mother, is hypocrisy, capitulation, and logically and morally inconsistent (Personhood Alliance, n.d.; Muise, 2014; People for the American Way, 2014; Rogers, 2014; Cohen, 2015; Right Wing Watch Staff, 2015). Robert Muise (2014) expresses weariness with the incrementalist

approach, saying that, while it has laudable goals, it has lost sight of the larger picture and “offers no plan or promise of ending abortion in the foreseeable future.” While Rogers (2014) attempts to downplay the division caused by the difference of tactics, Muise (2014) does not mince words when he states “[If] the American public is not ready to accept the reality that human life begins at fertilization...then it is a serious indictment of the national pro-life movement and calls into question its efficacy over the years.” Pro-life critics of the incremental approach often support immediate strategies, such as a Human Life Amendment to the federal Constitution or state level amendments.

Table 1

Mapping of Personhood Faction and Mainstream Pro-Life Movement

| Faction | Personhood | Mainstream Pro-Life |
|----------------|---|--|
| Who? | Personhood Alliance American Life League | National Right to Life Committee Americans United for Life |
| What? | End abortion and establish fetal personhood immediately | Erode the right to an abortion and establish indices of fetal personhood |
| How? | Human Life Amendment <ul style="list-style-type: none"> • State level • Federal level | Incremental approaches at state and federal level, such as: <ul style="list-style-type: none"> • Fetal protection laws • Feticide laws • Stillborn birth certificates • Chemical endangerment laws • Informed consent • Mandatory waiting periods • Mandatory ultrasounds • Lawyer ad litem for fetuses • Withholding and restricting funding • Indices of personhood in inheritance law, etc. |

Human Life Amendments: An Overview

Proponents of an immediate approach—such as the Personhood Movement—frequently channel their energies towards the passage of a Human Life Amendment. Yet, even within an immediate strategy, the proposed laws a number of different tactics. This section is merely intended to provide a reasonable overview of the effort to enact a Human Life Amendment, a detailed discussion of proposed amendments is included in Chapter 4. However, it is useful to introduce the topic here, as it represents a point of contention in the Pro-Life Movement and serves to demonstrate the schism created by the issue of personhood.

The first Human Life Amendment was proposed just one week after the announcement of the holding in *Roe v. Wade* (1973). Maryland Representative Lawrence Hogan (R) introduced House Joint Resolution 261 which read:

Section 1. Neither the United States nor any State shall deprive any human being, from the moment of conception, of life without due process of law; nor deny to any human being, from the moment of conception, within its jurisdiction, the equal protection of the laws.

Section 2. Neither the United States nor any State shall deprive any human being of life on account of illness, age, or incapacity.

Section 3. Congress and the several States shall have the power to enforce this article by appropriate legislation.

The next introduction of a federal bill came in March of the same year and is more explicit in its purpose and aim—limiting abortion. Commonly referred to as the Whitehurst Amendment, House Joint Resolution 427 simply reads “*Nothing in this*

Constitution shall bar any State or territory or the District of Columbia, with regard to any area over which it has jurisdiction, from allowing, regulating, or prohibiting the practice of abortion.”

Throughout the 1970’s and 1980’s, there was a large quantity of Human Life Amendments introduced. To date, the only one to advance to a vote is the 1983 “Hatch-Eagleton Amendment,” Senate Joint Resolution 3 (SJR 3). Comprised of a mere ten words: *“A right to abortion is not secured by this constitution,”* SJR 3 made it through committee and came before the full Senate but fell well short of the 67 votes required to send the amendment to the House, with a vote tally of 49-50.

While the introduction of these bills never went away, the 1990’s and early 2000’s were defined mostly by their successes in the incremental push. Then, beginning in the mid-2000’s and early 2010’s there was a marked increase in the number of State level personhood initiatives, spearheaded by states like Colorado and Mississippi. Colorado’s people-lead initiative, Amendment 48, went before voters in 2008. The text read *“As used in section 3, 6, and 25 of Article II of the state constitution, the term ‘person’ or ‘persons’ shall include any human being from the moment of fertilization.”* The citizens of Colorado voted against Amendment 48—73.21% to 26.79%.

Mississippi’s 2011 Initiative 26, also called the Life Begins at the Moment of Fertilization Amendment, offered the next major test of the personhood agenda. As Mississippi is a historically and reliably conservative state, many supporters of personhood viewed this as a pivotal test—one they felt assured they could succeed in. The plain language of the ballot read:

Initiative #26 would amend the Mississippi Constitution to define the word 'person' or 'persons,' as those terms are used in Article III of the state constitution, to include every human being from the moment of fertilization, cloning, or the functional equivalent thereof.

In a shocking turn of events, Mississippi voters rejected the initiative 57.63% to 42.37%.

Still, the movement was not deterred. Supporters of the Mississippi initiative regrouped; in October 2014, Personhood USA rebranded as Personhood Alliance and held its founding convention. Calling personhood “the pro-life battle-ground of the 21st century,” the Personhood Alliance (2014) believes that groups like National Right to Life Committee (NRLC) and Americans United for Life (AUL) have strayed from the Christian origins of the movement and made an egregious mistake in their willingness to compromise¹ in order to appeal to the mainstream. Personhood Alliance contends:

Our narrow focus on being anti-abortion in the 20th century has not expanded, at a grassroots level, to embrace a host of issues which are emerging in the 21st century. We need to adjust our strategy and message to one of Personhood, in order to successfully transition our base
(Personhood Alliance, 2014)

In this vein the Personhood Movement has increased their efforts at the state and municipal level, working to change local politics. In addition to the activism in Colorado and Mississippi, more than eleven other states have introduced fetal personhood bills—including Alabama, Alaska, Georgia, Indiana, Iowa, North Carolina, and Texas. In

¹ Paul Brown, speaking at the Personhood Alliance founding convention, went as far as to question whether these groups have a financial motivation *not* to succeed in completely eliminating abortion (Right Wing Watch, Staff, 2015).

Alabama, the legislatures have passed a bill to allow voters to have the final say on fetal personhood when they go to the polls in November of 2018 (Nash et al., 2017).

Additionally, South Carolina (Lewis, 2016), Michigan (Al-Sibai, 2017; ProPublica, n.d.), North Dakota (Culp-Ressler, 2015), and Wisconsin (ProPublica, n.d.), have all had particularly active personhood movements in recent years.

However, not everyone in the Pro-Life Movement is keen on the notion of personhood. The following section contours the schism within the movement caused by the work of the personhood faction. Mapping and understanding this conflict is significant because it represents an opportunity for activists on multiple sides of the debate. Activists and supporters of the personhood agenda reconstitute the middle through their extreme rhetoric, allowing supporters of the mainstream pro-life agenda to appear reasonable and placing them in a better position from which to negotiate. Finally, supporters of the choice agenda and women's autonomy need to understand the schism in order to more successfully undermine the influence of personhood and pro-life rhetoric on the national stage in order re-center the woman in the debate.

A Schism in the Movement

Even *pro-life* legal scholars dispute the prudence of supporting a Human Life Amendment, especially one approved by a state referendum, due to foreseeable risks. One oft-sighted risk is that a human life amendment is not self-enforcing, and without substantial backing in federal courts, it could have the actual result of presenting greater challenges for the pro-life agenda while garnering considerable negative media coverage and precluding compromise (Forsythe & Burke, 2007; Linton, 2009).

There is considerable concern about what a significant loss on a Human Life Amendment would mean for the future of the pro-life legislative agenda, as well as what the ramifications would be for the movement if a blatantly unconstitutional law were struck down by the courts (Forsythe & Burke, 2007; Linton, 2009; Linton, 2015). This sentiment is echoed in the warning: “there is no such thing as a “no-cost” defeat” (Linton, 2009, p. 61). Recognizing the frustration built up in the years since *Roe v. Wade*, these scholars call on pro-life supporters to avoid acting rashly and impulsively, and to, instead, act in a manner which progresses the movement in more certain and secure ways.

Given this position, some scholars offer a stinging rebuke of the Personhood Movement and proposed personhood amendments at the state level. They outline limitations of such proposals, including: “failure to recognize the hierarchy of law” (Linton, 2009, p. 62), confounding state action with private action, and failure to frame the proposed laws as mandates rather than prohibitions. Scholars are equally critical of efforts to push personhood legislation at a local or municipal level, noting the difficulty of citizen initiatives in most municipalities—state law may even pre-empt municipal regulations of abortion or definitions of life—and that, even if a local area decided to redefine ‘person’ its effect would be limited geographically (Linton, 2009; 2015). Citing the Personhood Movements lack of willingness to compromise, Paul Linton contends “the local citizens initiative strategy adopted by Personhood Alliance *does not deserve the support of the pro-life community*” (2015, p. 33, emphasis mine).

There are also scholars who contend anyone (critic or supporter) who claims a Human Life Amendment would ban abortion are disingenuous; they claim these laws do not function as suggested due to the many different versions of Human Life Amendment,

the importance of due process (with due process, abortion might still be permissible), the distinction between state and federal law, as well as the distinction between criminal and constitutional law (Forsythe, 1996). Others are less charitable in their assessment, asserting that Human Life Amendments, especially at the level of state, are “blanks” rather than “silver bullets,” and will do nothing to end abortion; Linton bluntly states: “these proposals, in my judgment, have been drafted with breathtaking, indeed, stunning, ignorance, or even defiance, of basic state and federal constitutional principles” (2009, p. 62).

The debate over a Human Life Amendment is a point of contention among pro-life activists and there is a polarization over questions of compromise. This causes some in the mainstream Pro-Life Movement to distance themselves—one such activist is Sue Armacost of Wisconsin Right to Life who is on record stating “I don’t want to talk about the personhood amendment anymore. I’m done talking about the personhood amendment. This particular measure might sound good from a pro-life perspective, but it’s not going to save one single life” (Right Wing Watch, 2015). Others, such as Charmain Yoest of Americans United for Life, a mainstream group frequently criticized by members and organizations within the Personhood Movement, acknowledge the impact of the Personhood Movement: “The pro-life movement is not one size fits all. Most people want to see abortion restricted in some way, even if they don’t call themselves pro-life ... We’re the ones occupying the middle ground” (Wylter, 2013). The Pro-Life Movements awareness of this allows them to maintain a façade of reason as they bargain from footing artificially modified by the extremity of personhood rhetoric. The subsequent sections examine how personhood laws and discourse facilitate this shift.

CHAPTER 4

RECONSTITUTING THE MIDDLE THROUGH LEGISLATION

Analysis of tactics deployed for proposed Human Life legislation across time, geography, and jurisdiction illuminates conflicts between state and federal powers to regulate or proscribe abortion and demonstrates the comparative power of the Pro-Life and Personhood Movements. Human Life legislation in the ten years post-*Roe* forged the path for today's Personhood Movement, which has narrowed its scope considerably in terms of federal legislation. The states are a slightly different matter. The Personhood Movement is strong in some, but not all, states and its strength has been overestimated in certain pro-life strongholds. Variations—observed in bill texts from federal to state, across states, and even within states—reveal the tension between a pro-life agenda seeking a mainstream appeal, and the personhood agenda which views compromise and exemptions to be hypocrisy and the moral equivalent of the murder of innocent life.

The legal ramifications of *Roe v. Wade* were immediate. In the decade after the decision, both chambers of Congress endeavored to pass bills that fall under the umbrella of Human Life Amendments. Efforts to pass a Human Life Amendment continue to the present day at the state and federal level. While in the ten years immediately following *Roe*, Congress deployed a range of tactical approaches attempting to proscribe abortion and establish a Human Life Amendment, the modern day legislative efforts have focused considerably. The language of the federal level bills examined in this study was nearly identical from 2003 until 2017 across the House of Representatives and the Senate².

² There are a few reasons for the similarity of language across time and chambers. First, bills are frequently reintroduced in subsequent sessions if they have not received a hearing during the legislative session in which they are initially proposed. Each year the bill simply received a new numeric designation and may

If the first ten years of the effort to pass a federal Human Life Amendment is characterized by a variety of strategies, and the contemporary federal movement has been more focused, recent state actions have simultaneously narrowed in focus and expanded in tactics. To clarify, the text of state efforts generally include language redefining person and specifying the start of life, as well as containing provisions explicitly prohibiting abortions, but the mechanisms of the state efforts and the actions they call for are considerably more varied. Some states try to establish personhood and end abortion through citizen-led initiatives, others have drafted legislation amending the state constitution by adding sections and redefining life. Still, others have crafted bills striking the language of abortion from their revised statutes. One of the states in the sample, Texas, called upon the federal government to draft a Human Life Amendment to ban abortion and provided potential model legislation for Congress.

When examining state legislation, one thing becomes clear: the states are ground zero in the tension between personhood and the Pro-Life Movement. The texts of these bills and the pattern of introduction—sometimes multiple, near-identical bills in the same session—demonstrate the level of disagreement over what such a bill should look like and what, if any, exceptions it should allow for.

While these bills may have different approaches toward the same goal, close reading reveals they share a common trait in that they all fail to live up to their promises. In some instances, the bills are not written in a manner to be enforceable. In other bills,

shuffle sponsors or co-sponsors. Second, bills in Congress must go through a reconciliation process after being passed in the House and Senate—this is simpler to accomplish if the bills are similar or the same. Finally, often bills proposed are based on model legislation provided by organizations mobilizing on behalf of a particular legislative goal. Recent federal legislation exemplifies a strong model of a basic template that reflects modifications in response to constituent concerns and criticisms of the bill.

the language is so fluid it could have the opposite effect of that intended. Some of the bills provide exemptions that are inconsistent with the beliefs of the Personhood Movement, while others contain so few exemptions they would require a serious (yet absent) balancing of interests with the rights of the pregnant woman.

In this chapter, I use the texts of Human Life Amendments to explain and demonstrate that, while the personhood faction favors an immediate approach, personhood laws tend to be more symbolic than legally instrumental. An overarching question that must be asked of all these bills is: would they actually work? Would any of these bills achieve their goal if they were enacted? I argue the short answer is no, but this is not to say they would not have any effect. I contend that the value of the movement introducing personhood compliant laws, even if they fail to pass, is that, as an immediate strategy, they are often quite extreme—this works to reconstitute the middle because it makes incremental laws appear more reasonable, allowing for *true* instrumental gains. In this manner, the mainstream Pro-Life Movement benefits from the discourse of personhood. I begin by addressing enforceability and identify this as an indicator of whether a proposed Human Life Amendment should be considered legally symbolic or instrumental. Next, I look at exemptions as an example of a tactic used to boost mainstream appeal and juxtapose it with purist personhood legislation. Here, I turn to state bills as exemplars of more traditional personhood rhetoric. Through an examination of the language of the bills and the tactics they deploy towards attaining fetal personhood, I make visible the influence of Personhood’s religious ideologies, a simplistic, “see no, speak no, hear no evil” mentality, and a shift towards polarization in personhood legislation. I conclude by arguing that these tactics are symbolic, but their extreme nature

works to reconstitute the middle of the abortion political landscape, allowing both socially and legally instrumental gains to be made by the mainstream Pro-Life Movement, who pursue incremental tactics and victories in other domains of law.

Enforceability: What Makes a Bill Symbolic Rather than Instrumental?

Enforceability is a critical (but not the only) consideration of what makes a bill symbolic or instrumental. Detailed attention to the bills in this study makes clear that most regulate *state* behavior, not the behavior of private individuals. States do not run abortion clinics or provide abortions—individual citizens do. This conundrum gets to the issue of enforceability that is a central question to most of the proposals. Bills not written in a manner that would touch private behavior are more emblematic than legally instrumental.

Many bills appeared so toothless they surely must be symbolic—but symbolism *is* important and conveys great meaning. Take, for example, House Joint Resolution 294 (1979), referred to as the Paramount Amendment, which states: “*The paramount right to life is vested in each human being from the moment of fertilization without regard to age, health, or condition of dependency.*” There is an incredible amount packed into that twenty-five-word sentence, but one of the main things it does is communicate to pro-life, pro-personhood constituents that the legislature hears their concerns, understand their concerns, and will be their voice as well as the voice of ‘the unborn and pre-born.’ It does not matter to proponents of personhood that this law is unenforceable; a symbolic legal victory is significant in and of itself.

Even if a bill is written in a manner to make it enforceable, this does not guarantee it will achieve its stated purpose: for example, House Joint Resolution 427

(1973), the Whitehurst Amendment. This bill, similar to the proposed Scott Amendment (Senate Joint Resolution 91, 1975), is classified as a Human Life legislation despite not containing a definition of life. These bills seem specifically written with the intent to upend *Roe* and work by turning over the power to regulate or proscribe abortion to the states. The plain language of the text does not explicitly ban abortion and would not necessarily end abortion. Instead, it would make this decision the domain of the state. Notably, in both of these bills as well as the Noonan Amendment (House Joint Resolution 681), states could decide to allow abortion or liberalize existing restrictions. A state legislature could still pass laws stipulating cases in which abortions were permitted—or decline to regulate them entirely. All this bill does is decree that abortion is not a right guaranteed by the *federal* Constitution. Each of the fifty states has a constitution of their own and can write laws of their choosing, provided the laws do not violate the federal Constitution. What is almost certain is that this could create an even more polarized and piecemeal availability of abortion care dependent upon where a woman was located geographically, which in turn disproportionately affects marginalized women (Jones, Ingerick, & Jerman, 2018).

Furthermore, the text of all of these bills neglect the reality that the constitution *does not* guarantee life—it guarantees *the state* will not *deprive* a person of life *without due process*. These bills do not provide a ban. Absent a ban or additional laws regulating individual behavior, the proposed amendment only makes symbolic gains towards eliminating abortion or achieving personhood.

Mainstream Appeal versus Personhood Compliance

A main point of contention between the personhood faction and the larger Pro-Life Movement surrounds language of exemptions in bills sponsored by mainstream pro-life groups. Human Life Amendments containing exemptions—such as ones for the life of the mother, rape, or incest—are generally supported by mainstream pro-life groups, but not the personhood faction. Bills often contain exemptions to boost popular appeal and make the deprivation of liberties more palatable to voting constituents, this is particularly true of bills introduced at the federal level.

For example, the Roncallo Amendment, 1974's House Joint Resolution 1041, is written in such a way that it redefines personhood and bans abortion, but it also appears to be written in a way that would *not* impact in vitro fertilization or other fertility treatments, which do not *intentionally destroy* human life. Similarly, the 2017 Senate version of the Life at Conception Act (S. 231) maintains the quasi-feminist language of the previous version, and adds protections for in vitro fertilization, birth control, and fertility treatment with the language: “*Nothing in this Act shall be construed to require the prosecution of any woman for the death of her unborn child, a prohibition on in vitro fertilization, or a prohibition on use of birth control or another means of preventing fertilization.*” These exemptions make the bills safer for the sponsors and co-sponsors and better reflect the way most American's feel about abortion, birth control, and fertility treatment. While these exemptions are in-line with the majority of Americans and the mainstream Pro-Life Movement, they contradict the desires and rhetoric of the more radical Personhood Movement. This is a logical inconsistency which would infuriate the purists of the Personhood Movement because the law treats all life as sacred from the

moment of conception—but only so far as abortion is concerned. True believers of the Personhood Movement would not approve of a law that would allow fertilized embryos (such as those created during the in vitro process) to exist in limbo.

Owing to the difficulties of passing a Human Life Amendment at the federal level, organizations leading the push for fetal personhood have turned to the states as their primary battlegrounds. A common theme in the state bills examined was a tension between state's powers to protect unborn life or ban abortion and extant federal law/Supreme Court jurisprudence. This frustration was expressed by the states in different ways. Some states, such as South Carolina and Kansas explicitly included language evoking the right of the state to offer protections above what is called for by the federal constitution. Kansas' Senate Concurrent Resolution 1607 and House Concurrent Resolution 5009 include the language "*Recognizing the authority of the state of Kansas to exercise its police power and...sovereign right to adopt individual liberties...more expansive than those conferred by the constitution of the United States.*" Kansas additionally attempted to capitalize on public shame by calling attention to "*the current federally mandated legal status of preborn humans.*" Some states express concern about their relative level of sovereignty through their actions to protect the bill in the event that it does pass. Iowa's House File 297 and Senate File 253 are identical bills relevant to the discussion of state compared to federal authority because they contain two sections discussing jurisdictional and legality concerns, such as a *severability clause* inoculating the bill should portions of it be rendered invalid or challenged in court.

What may seem like a collection of small turn of phrases are significant because they exemplify the disgust and frustration felt by many in the Personhood Movement

towards the government for its failure to overturn *Roe v. Wade* and pass a Human Life Amendment. This frustration, like a seething resentment, is starting to bubble out of the hidden transcripts of personhood discourse and into the more public transcript of legislative discourse in this country (Scott, 1990). While much of the past legislation has been virtually unenforceable, the rhetoric of personhood has damaging consequences and shows no signs of abating. In addition to the tension over jurisdiction, state legislation makes visible the effect of personhood lobbying and discourse. State bills contain strong evidence for the influence of religious ideologies, a simplistic, “see no, speak no, hear no” evil mentality, and a shift towards polarization. These symbolic tactics have little to no instrumental value save how their extreme nature works to reconstitute the middle in the abortion political landscape. The following subsections examine each of these themes in greater detail before explicating the damage caused by proposed Human Life Amendments—even failed ones—namely, these proposals allow for greater success of dangerous, mainstream pro-life legislation.

Personhood: Religious ideologies. While many pro-life individuals have religious motivations undergirding their views on abortion and fetal personhood, the blatant use of religious imagery reflects the desires of the Personhood Movement and their attempt to transition their base and protect “human dignity.” For example, National Personhood Alliance is openly faith-based and, in their Founding Charter, call for a return to the biblical understanding of personhood. The introduction of highly charged religious language into Bill 217 of the South Carolina General Assembly, the ‘Personhood Act of South Carolina,’ indicates the power of the Personhood Movement in South Carolina relative to the power of the mainstream Pro-Life Movement and reflects a

biblical understanding of personhood. There are blatant religious tones contained in the text of the bill. It contains language about the “*sanctity of life*” and includes as part of the findings of the General Assembly that “*all persons are endowed by their Creator with certain unalienable rights*” and that “*personhood is God-given, as all men are created in the image of God.*” True to the format long established in Human Life legislation, there is no mention of the woman, the fetus, or abortion.

Biblical understandings of personhood are often accompanied by biblical understandings of the role of women and the role of men in relation to women (the ramifications of which are discussed in Chapters 5 and 6). While the rhetoric of this bill may not be extreme or violent, it contains an intertextuality that alerts one to the implied meanings of its text. The worldview of personhood, informed by biblical ontology, is artificially narrow and contains notable exclusions: women and any consideration of female autonomy. Failure to consider the needs, rights, or autonomy of women has become a hallmark of the pro-life reproductive health care policy.

Personhood: “See no, speak no, hear no evil.” Beyond adoption of biblical worldviews that confines acceptable behavior along gender roles, some states take an interesting approach in their attempts to end abortion and establish protection of human life beginning at conception: they remove language from existing legislation and replace it with language consistent with protecting life. Essentially, they rewrite extant laws regulating abortion so that the word abortion is omitted. For example, Missouri House Bill 14 would change the opening provision of Section 188.010 of the Revised Statutes of Missouri from “It is the intention of the general assembly of the state of Missouri to *grant the right to life to all humans*” to “It is the intention of the general assembly of the

state of Missouri to *protect* the right to life of all humans,” and completely remove the phrase “to regulate abortion to the full extent permitted by the Constitution of the United States, decisions of the United States Supreme Court, and federal statutes.” In place of regulating abortion, House Bill 14 now calls on the state of Missouri to “*require due process of law before the life of any human, born or unborn, is ended prior to natural death.*” In lay terms, a woman would be required to go before a judge and get permission from that judge to obtain an abortion; her fetus would likely be assigned a lawyer to defend its interests in court, paid for with tax dollars. Deploying a similar tactic, Indiana’s 2017 House Bill 1134 is an extensive document, repeals all state statutes that authorize and regulate abortion—entire subsections of law defining terms and procedures are struck, as if the goal was to obliterate its existence. However, erasing a word does not end a practice or negate its occurrence and need.

Even with provisions redefining life as beginning at the moment of conception, erasing the language of abortion will do nothing to eradicate the reality of abortion. These bills, and their attempt to protect life through erasure of language inconsistent with a preferred moral stance, begin to reveal the simplistic worldview of the Personhood Movement. This ontology is problematic because it precludes the ability to converse with individuals who hold opposing views. It creates a dynamic in which people of differing mindsets are unable to come together and work towards solutions because there is no middle ground. When our language contours our realities to preclude the opinions of others or an acknowledgment of their lived experience, radical polarization is often the result.

Personhood: Extreme views and lack of compromise. The worldview encapsulated within the personhood mindset is one that, through exclusions and erasure, creates polarization and an environment that precludes compromise. Proponents of Colorado’s Initiative 48 maintained in their talking points that they sought to create a space where a dialog could take place about the definition of personhood and life—ironic and misleading, given that their proposal would have defined life and eliminated all room or need for a conversation. The personhood mindset, in which anything less than full rights from the moment of fertilization is capitulation, leaves no common ground for conversation or civic debate.

Inability to engage in civic debate is deeply concerning, especially when it is demonstrated from within legislative bodies. In the 2017 session, both the House and the Senate for the state of Kansas put forth Concurrent Resolutions (HCR 5009 and SCR 1607) proposing to amend the State Constitution so that the State Bill of Rights would include language guaranteeing the right to life from the moment of fertilization. The aspect of the Kansas propositions that I wish to draw attention to is the polemic nature of the plain language that would have been placed on the ballot for voters: “*A vote against this proposition would not amend the constitution, in which case the current federally mandated legal status of preborn humans would remain that of a class of human beings that can intentionally be killed.*” It is important to note that this quote was not pulled from a blog or Facebook rant. The language is from the actual text of two bills before a state congress. It is language sponsored and supported by government officials who hold power and influence over the lived realities of citizens. This level of distortion should be disconcerting. However, the verbiage on the ballot is prototypical purist Personhood

Movement rhetoric: it is overly-simplified and misrepresentative, it is polemic, it leaves no middle ground.

Lack of middle ground can also create a lack of a willingness to compromise. In 2017 alone, Texas legislators introduced at least five bills pushing for the recognition of fetal personhood: House Joint Resolution 121, House Joint Resolution 122, House Joint Resolution 123, Senate Joint Resolution 9, and House Joint Resolution 104.

House Joint Resolution (HJR) 121 amends the Texas Constitution by adding four new subsections to Section 19, Article I. The newly added Subsection (b) functions by redefining “citizen of the state” to be inclusive of all homo sapiens from fertilization or *“other moment at which an individual member of the human species comes into being.”* Subsection (c) re-emphasizes the right to life as applying to the unborn and includes ‘intentionality caveats’ carving out exemptions for in vitro and birth control, also stating that the bill does not necessitate the prosecution of a pregnant woman. Subsection (d) proscribes abortion “to the fullest extent possible.” Subsection (e) carves out exemptions explicitly allowing for abortion in the event of a medical emergency or in cases of rape or incest. This seems almost liberal compared to many bills in the category of human life legislation. The fact that it has an exception for a medical emergency, and not simply life, as well as an exception for rape and incest, would be an anathema to the Personhood Movement.

HJR 122, filed shortly after HJR 121, alters Section 19, Article I of the Texas Constitution by adding a Subsection (b) verbatim to HJR 121. However, HJR 122 excludes the subsections (c), (d), and (e) included in HJR 121. HJR 123, introduced in the same legislative session, includes only subsections (b), (c), and (d). The omission of

Subsection (e) is significant because it demonstrates a victory of Personhood Movement ideology over the wishes of the mainstream Pro-Life Movement.

What both of these examples demonstrate is the polemic, no compromise nature of the Personhood Movement—not surprising, given the movement’s predilection for favoring immediate strategies. Taken together, the religious ontologies, ‘see no, speak no, hear no evil’ mentality, and extreme unwillingness to compromise practically ensure legislation compliant with pure personhood ideologies will, for legal purposes, never be more than symbolic. However, at the same time the personhood faction stands resolute in their unyielding ways, the mainstream Pro-Life Movement has demonstrated a willingness to mold their tactics in an effort to broaden their appeal and pass incremental, but legally instrumental legislation.

Reconstituting the Middle: Extreme Bills Allow for Instrumental Gains

Jurisdictional issues, court holdings, and extant laws make it more difficult for movement advocates to pass legislation establishing fetal personhood and outlawing abortion. Most of the proposals to date, at both the state and the federal level, would have limited or dubious efficacy—and in some cases, could have an effect opposite that intended. Fetal personhood advocates have adopted the conviction that the movement’s failures are a result of its compromise and mainstream appeal—believing that the movement has strayed from its faith-based, Christian origin—and offers as a solution an even more radical stance. In contrast, the mainstream Pro-Life Movement has sought workarounds to this ‘problem’ by specifically tailoring their laws to incrementally erode abortion rights and alter public discourse surrounding the fetus and life.

The renewed vigor of personhood rhetoric in the national discourse and in state legislation bolsters the mainstream Pro-Life Movement. Between 2011 and 2013, there were as many abortion regulations passed at the state and federal level as in the whole decade prior (Nash, Gold, Rowan, Rathbun, & Vierboom, 2014). Incremental pro-life legislation, the darlings of the mainstream effort, such as targeted regulations of abortion providers (TRAP) laws, mandatory counseling and waiting periods, and laws requiring ultrasounds, are achieving astonishing levels of success. In 2000, only 13 states were considered hostile to abortion; by 2013, that number had risen to 27, meaning that 56% of women live in a state that is hostile to her reproductive autonomy (Nash, Gold, Rowan, Rathbun, & Vierboom, 2014). Legislation that, years ago, would have seemed extreme and unthinkable, pass today with relatively little pushback.

Given that the states are a hotbed of Personhood Movement activity, and that states often act as a ‘petri dish’ or testing ground for future national activity, it is likely that the tactics of Human Life Amendment legislation backed by the Personhood Movement will eventually make their way back into the national legislative domain with renewed prominence. The unwillingness of the movement to compromise decreases the likelihood of the proposals passing and increases the likelihood of a legal challenge should any of the bills pass. However, the unwillingness of the movement to consider additional perspectives coupled with their discursive and representational practices make the re-emergence of the Personhood Movement onto the national stage and into our collective civic consciousness a particularly frightening possibility.

While this chapter focused attention on how the extreme laws of personhood ideology work to shift the terrain on which the legal debate surrounding personhood takes

place and enables the larger Pro-Life Movement to appear to occupy the middle ground, the next chapter includes greater emphasis on the rhetorical practices of Personhood Movement activism, examining the ways in which their discourse has seeped into the American consciousness and normalized notions of fetal personhood at the expense of women.

CHAPTER 5

RECONSTITUTING THE MIDDLE THROUGH DISCOURSE

The choices made surrounding language for communication and advocacy warrant sustained attention because these selections demonstrate, constitute, and reinforce the dominant narratives of the movement that are integral to advocacy, praxis, and legislative efforts. The Personhood Movement would give rights to zygotes, but it is generally careful not to directly state as much. Instead, it defines life as beginning at conception or fertilization, rarely addressing the actual implications of this. Rather, the movement prefers to use the terms ‘unborn’ or ‘preborn’ to conjure images of fully formed children, babies, and infants. By using terms that call to mind images of fully formed newborns, the Personhood Movement is able to misrepresent abortion and vilify the procedure more effectively. The humanizing effort plays a large role in why it is so important for advocates of personhood to encourage individuals talking about abortion to use pronouns or terms like “the child” when referring to the fetus. Personhood Alliance cautions their supporters “We don’t refer to born humans as ‘it’ and we shouldn’t give the unborn any less respect and dignity” (Harold, 2014). Referring to the fetus as “the child” from the moment of conception cognitively acts to humanize it and to place a temporal stamp on when life starts. The importance of labels and framing is acknowledged by academics and activists alike. By controlling the labels and the narrative, a movement increases their power of persuasion and ability to drive results. The entire catalyst for the intense effort to pass a Human Life Amendment is because the Supreme Court held in *Roe v. Wade* that the label person did not apply to the fetus.

Working from the assumption that language is dynamic and acts to structure worldview, I examine the construction of language for the movement, investigating how accounts come to be represented as factual and how certain descriptions—such as that of the fetus—are reified, while others—such as that of the woman—are ironized. The rhetorical and framing practices of the Personhood Movement reflect a black and white mentality and an overly simplified worldview across multiple levels and sites of analysis. Given the need for the outward appearance of neutrality, assessments of which facts, descriptions, categorizations, and accounts merit reification and which merit ironization is rarely explicitly stated in law but is more overt in web content.

I looked at footing, stake inoculation, and nominalization to gain insight into pragmatic intent. Through this, I found patterns of omission and exclusion, inclusions, repetition, troubling phrases, and the power of labels, interact to shape and enable movement cognition and movement narratives surrounding the legal and social status of the fetus and women. These may seem like a simple turn of phrase that should not have the capacity to affect cognition—but linguistic choices are significant because they create and reinforce the black and white, condensed frame of the Personhood Movement. The polarization and extreme rhetoric of the personhood paradigm erases the middle from the conversation and shifts the entire debate to be more in-line with conservative ideologies, chiefly through its efforts to humanize the fetus and erase the woman.

In the following sections, I argue that personhood discourse is damaging, even in the absence of legislative victories, partly because it offers a flattened and condensed understanding of the world. I first draw from personhood websites to cite examples of how the discourse of personhood offers simplified, easily repeatable talking points

characterized by an absolutism and an extremism that does not allow for negotiation or middle ground. I next argue that the abstracted reality constructed by personhood does not require a consideration of nuance or a balancing of interests—one of the clearest examples of this is the erasure of the woman from personhood discourse and legislation, and the roles and labels she has thrust upon her when she does enter the conversation. I explain that in the personhood paradigm, conservative notions about a woman’s place and familial roles dominate, and I foreshadow the implications for a balancing of rights within this worldview.

Repetition and Simple Talking Points

The oversimplification of rhetoric, characteristic of personhood, is visible through the frequent use of the word “just,” as in “that’s just the way it is” or “it’s just that simple” (American Life League, n.d.), and the implication of similar uncomplicatedness. This is integrally related to the notion of immutable fact, or the idea that “objective Truth exists. It does not change” (J. Brown, n.d). Discussions of an absolute, immutable truth necessarily preclude a willingness to even consider another vantage point. Discussions of absolute, immutable truths necessarily imply and create a framework in which analysis, explanation, and nuance become superfluous. Discussions of absolute, immutable truths necessarily omit certain narratives from “the Truth” because contradictions are fatal, and the stakes are so high. Clinging to the notion of an absolute truth can be a method of stake inoculation utilizing nominalization. By situating their work in terms of enacting the will of a greater authority, the Personhood Movement is able to adjust the footing from which they discuss the topic of abortion while claiming the moral high ground.

Correlating with a conviction of absolute truth is a polarization of beliefs. This black and white mentality is characteristic of the condensed worldview observable among fetal personhood advocates and is demonstrated by statements such as “the bottom line is always the same — the baby³ is a person, whose right to life is just as non-negotiable as yours or mine” (J. Brown, n.d.) and “there is no conceivable circumstance (exception) that justifies an abortion” (Personhood Iowa, n.d., a). Both of these examples display the author as speaker making a declarative statement as if it were fact and warrants no further debate. Consideration for lived realities is impossible to distill into easily repeatable soundbites. Consideration for lived realities complicates the transmission of the personhood message—that is why consideration for lived realities and deep levels of cognitive engagement do not occur. Instead, advocates of personhood ironize competing descriptions of reality, often by excluding them entirely. This is a way of avoiding or subverting the intricacies necessarily involved when discussing a balancing of interests, or other moral gray zones. There is no acknowledgment of any conceivable middle ground or difference in perspective; their worldview does not allow for a balancing of rights or a situation in which a woman could *need* an abortion.

A similar demonstration of black and white thinking can be found, at the sentence structure level, in the formation of thoughts and, by extension, belief systems. For example, it is not uncommon for personhood websites to be loaded with oft-repeated “Thou shall not” type phrases, such as the declaration “one should never attempt to codify in law the importance of one innocent human life over and above another” (American Life League, n.d.). The discourse of personhood advocacy frequently uses

³ By baby, they mean zygote or fetus in utero.

overly simplified conditional statement with an If/Then or Either/Or structure⁴. An example of this rhetorical device can be observed in the Personhood Alliance statement “if the opposition can use emotive language to influence people, [then] I am not above doing it too” (Harold, 2014). Sometimes this basic structure may take a more complicated If/Then/Therefore structure, such as: “Either the preborn child is a person, or the child is not a person. Since the preborn child is a person, there can be no exceptions for abortion” (Personhood Iowa, n.d., b). This rigid either/or, neither/nor structure is significant because of the role it plays in assembling how people interpret, explain, and interact with their world and functions to constrict an individual’s frame of what constitutes truth and fact. The rigidity translates beyond sentence structure, extrapolating to worldview—it affects how individuals vote, interact with others, and negotiate—or refuse to negotiate. Repetition of inflexible thought further cement belief systems, as is observable within personhood discourse.

Erasing the Woman

One of the key differences between the rhetoric of the Pro-Life Movement and the Personhood Movement comes from their willingness to compromise and to consider exemptions for the health of the woman, or in cases of rape or incest, in abortion restrictions. The Pro-life Movement, in using the language of exemptions, does at least

⁴ At other times, this format is turned around to a Neither/Nor structure: “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,” and “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” (Personhood Iowa, n.d., a) Here, too, the mindset of “Thou shall nots” and rigid, zero-sum mentalities prohibit any sense of a middle ground. It also has the power to distort the language choice used. Notice, for example, that the ‘innocent children’ belong to the criminal—only his parentage is recognized, and the woman is entirely removed from the frame. This erasure is, at least partially, by design, because the argument becomes complicated when another individual’s autonomy comes into the picture.

recognize the existence of the woman. The personhood faction, through its unwillingness to compromise or consider exceptions, ironizes the position of the woman and excludes her from the debate. The rhetorical practices of personhood are specifically framed in a manner that harnesses the power of narrative and labels to humanize the fetus while erasing the woman.

Feminist legal scholars are particularly attuned to the role of labels and narrative in creating the frame through which women are viewed in the abortion debate (see McCaffrey and Keys, 2000; Oaks, 2000; Roth, 2000; Holc, 2004; Sanger, 2008; Madrazo, 2014). Generally, personhood texts in this sample addressed women in narrow and limiting ways (see Table 2, pg. 58): by treating her as someone who is subjected to and a victim of abortion, by constituting her as a mother, or by omitting mention of her entirely. Only one of the bills in the federal samples, Senate Joint Resolution 137 (1981), acknowledged the woman as something other than the mother, referring to her as the ‘pregnant woman’ rather than assigning her the maternal role. Additionally, only one of the bills in the state sample mentioned the woman as a “pregnant woman” rather than treating her as a mother or excluding mention of her at all. In the ten years after *Roe*, nine of the thirteen bills federal examined for this study included no mention of the pregnant woman. Over half of the state bills examined exclude her from the conversation. This is a curious omission—or intentional exclusion—of any consideration of the woman in many of the legislative texts. When she is mentioned, she is mentioned in her role as mother or in relation to her (or sometimes the) unborn child. In the data set of contemporary federal laws, the woman assumed as a mother in all but two of them, through reference to “her unborn child.” Use of the possessive creates a situation in which the woman is a mother,

whether she sees herself in that role or not and whether she desires to continue the pregnancy to term or not. The use of language in the bills is not accidental—it is a deliberate deployment of a powerful emotive frame on the part of personhood advocates. By portraying the woman in the mother role, the movement manages to set up an expectation of socially acceptable behavior for her: she will care for the needs of “*her child*,” she will demonstrate some level of selflessness, she will never even think about an abortion.

Table 2

Treatment of Women in Coding from Examined Bills and Personhood Web Content from Georgia Right to Life (GRTL), Personhood Iowa (PI), and American Life League (ALL)

| Coding | Phrasing | # | Source |
|----------------------|--|----------|--|
| As Victim | "woman upon who an abortion is performed" "each time an abortion occurs, a woman is victimized" | 3 | IA HF 297 (2017) IA HF 253 (2017) Why We Must Vote Pro-life (GRTL) |
| Assigned Mother Role | "the mother," "her baby," "her unborn child," "life of the mother" | 11 | The Mothers Life (PI), Why We Must Vote Pro-life (GRTL), HR 374 (2011), HR 1091 (2013), S. 231 (2017), HR 681 (2017), HR 881 (2009), TX HJR 123 (2017), TX HJR 121 (2017), MI HB 4279 (2017), MI HB 4279 (2017) |
| Independent | "pregnant woman" | 1 | The Mothers Life (PI) |
| Omitted | | 18 | Rape and Incest (PI), What We Do To Help (PI), Declaration of Truth and Life (ALL), SJ Res 110 (1981), HJ Res 261 (1973), SJ Res 3 (1983), SJ Res 6 (1975), HJ Res 681 (1975), SJ Res 11 (1975), HJ Res 294 (1979), HJ Res 1041 (1974), SJ Res 91 (1975), HJ Res 427 (1973), HR 3069 (2003), HR 552 (2005), TX SJR 9 (2017-2018), TX HJR 122 (2017), MO HB 14 (2017) |

An interesting linguistic choice in many of the texts is the phrase “*a woman upon whom an abortion is performed*,” as seen in Iowa’s House File 297 and Senate File 253. This framing situates women as unwilling victims—it robs them of their autonomy and presumes that they are wholly passive in the decision to seek out an abortion. I do not point this out to imply that forced abortions or reproductive coercion are not real problems, they certainly are, and they certainly warrant sustained attention beyond the scope of this discussion. However, in the context of this legislation and the worldview associated with personhood activism, there appears to be a belief that every woman who seeks an abortion is “in crisis” and misguided or coerced. There is a dangerous resistance to believing that a woman could, of clear and rational mind, decide to have an abortion. This is benevolent sexism. This is patronizing. This is what is at the heart of Randall Lake’s argument that “By ‘protecting’ women from abortion, these measures signal their promulgators intent to help women achieve Redemption by limiting the potential for future Disobedience” (1984, p. 435), and contributes to the social pressures that, when coupled with legislative barriers and misinformed consent, is, itself, a form of reproductive coercion.

While the woman is positioned as a mother in the language of personhood bills and debate, she is still curiously pushed from the picture when a male enters into the conversation. Aaron Wagner (2001) calls for greater consideration of the father in the debate over abortion, but many personhood websites take this notion to a disturbing extreme. Personhood Iowa discusses the fetus as “the criminal’s innocent child”—with no mention of the woman. How a woman is dealt with in cases of rape/incest with the Pro-Life Movement is troubling and revealing: women are essentially viewed as

incubators. Many of the bills contain phrases granting life, from fertilization and throughout biological development, “*irrespective of condition of dependency.*” The fetus is dependent on the woman—and yet, she is frequently sidelined or pushed from the frame entirely: reduced to someone upon whom a fetus may have a “condition of dependency.” The fetus is reified, superseding the woman in the conversation about rights. The balancing of rights alluded to in the oral arguments of *Roe v. Wade* does not even come into play because the woman is not even acknowledged, let alone her interests. In an analysis of international human rights conventions, legal scholars Rhonda Copelon, Christina Zampas, Elizabeth Brusie, and Jacqueline deVore (2005) conclude that any right to life is contingent upon birth. They express concerns, similar to what Robin West (2005) refers to as “forced Good Samaritanism,” with the effort to subordinate a woman to the role and requirements of involuntary motherhood and situations in which certain women are reduced to human vessels (Copelon, Zampas, Brusie, & deVore, 2005). There are dangers of this resulting in discrimination (Seigel, 2005; 2010) and forced motherhood (Roth, 2000; Holc, 2004; Madrazzo, 2014).

The absence of the woman’s interests is also visible in the verb choice of the Personhood Movement and the frequent use of the language of war, violence, and crime. Visitors to pro-personhood websites will find position statements with hyperbolic imagery and various guides for how to alter their language to more effectively talk about “the crime of abortion.” For example, Personhood Alliance urges their followers to “use the phrase ‘commit abortion’” as a way of stressing the criminality of the act (Harold, 2014). Personhood websites (and, in fairness, Pro-Life websites) often use the phrase “abortion is murder” and discuss how the Pro-Choice side approves of “killing babies.”

These may seem like innocent slogans, but when placed in the same mindset of “the pro-life fight is God’s battle” and “uncompromising, Truth-affirming principles” (J. Brown, n.d.), they become more vexing. Recall, Kansas had two bills (House Concurrent Resolution 5009 and Senate Concurrent Resolution 1607) “*recognizing the authority of the state of Kansas to exercise its police power and its sovereign right to adopt individual liberties in the constitution of the state of Kansas more expansive than those conferred by the constitution of the United States...*” This introduces the possibility of fetal rights being used as a bio-punishment mechanism specifically targeting women and demonstrates the willingness of the state of Kansas to go to extreme measures to protect, what they view, as their sovereign right to do so. By implying that anything short of absolute protection of the fetus is akin to cruelly treating them like animals, the movement sets up the discourse recipients to be more amicable or receptive towards statements, such as “the dehumanization and murdering of preborn children [is] unthinkable” (Personhood Alliance, n.d.), and less likely to question the accuracy of the depiction. Oft repeated hyperbolic statements affect cognition—especially for a topic as emotionally charged as abortion.

The introduction of personhood discourse in an already militarized mindset is damaging to women because it represents a paradigm shift that conceptualizes “the fetus as an entity with legal rights independent of the pregnant woman has made possible the future creation of fetal rights that could be used against the pregnant woman” (Johnsen, 1986, p. 604). An example of this can be seen when a state forces women into substance abuse rehabilitation after the Court takes custody of the fetus (Oaks, 2000). The incremental approach deployed by the mainstream Pro-Life Movement have begun to

create a set of fetal rights that are “increasingly hostile” and “potentially at odds” with the autonomy of the woman (Johnsen, 1986, p. 559; Krauss, 1991; Daniels, 1993; Duden, 1993; Roth, 2000; L. Brown, 2005; Copelon, Zampas, Brusie, & Devore, 2005; Goldman, 2011; Will, 2013; Henricks, 2015; Al-Sibai, 2017) while the rhetoric of the Personhood Movement normalized the mindset encapsulated by these laws. This introduces the possibility fetal rights could be used to punish women (Daniels, 1993; Roth, 2000; L. Brown, 2005; Will, 2013) and is central to Lake’s (1984) claim “punishment demand a subject to be punished...Guilt requires a Victim if it is to be Redeemed. The Victim in anti-abortion rhetoric is woman” (p. 434).

While the United States has yet to pass a Human Life Amendment, if this were to occur, it would allow an empirical assessment of legal scholars’ concerns regarding fetal rights. Janine Holc (2004) examines the 1997 decision in Poland which held abortion was an unconstitutional violation of the right to life, noting that “the court’s discourse constructed not only a presumption of fetal personhood but a space in which the fetus becomes a subject of the state— here, the subject of state authority and social welfare goals” (Holc, 2004, p. 755). She argues the fetus becomes “the purest citizen,” due, in part, to its being interpreted as a tabula rasa on which national fantasies can be projected and that “women... are marked as vessels of the nation’s moral integrity, survival, and coherence, Thus, reproductive politics—particularly restrictive abortion laws—have become the territory on which conservative social ideologies play out fantasies of the ideal female-as-mother” (Holc, 2004, p. 756, citations omitted). Holc’s research demonstrates the capability of personhood ideology to shift the footing of the abortion debate onto distinctly more conservative territory—a framework which uplifts the status

of the fetus at the expense of the woman carrying it. Personhood's deployment of this representational frame has caused conversations surrounding start of life to take on more conservative tones in the national dialog. This represents a shift in the middle ground that has been exploited by the mainstream Pro-Life Movement to capitalize on the humanization of the fetus and the erasure of the woman in order to pass perilous legislation. In the following chapter I explore this idea further and shift to examine how, even in the absence of a major Human Life Amendment victory, the rhetoric of personhood paves the way for mainstream Pro-Life success and normalizes dangerous positions in the national discussion of rights.

CHAPTER 6

LAW AND DISCOURSE

When considering how laws and belief systems—represented through discursive practices—interact, it is important to keep in mind that the relationship is reciprocal and not as simple as the macro causing the micro or the micro causing the macro: both levels of thought and expression co-constitute each other. The complete worldview drives and frames the language choices, creating both the text of the laws and the rhetorical practices of the movement. The laws legitimize the representational practices of personhood by portraying the fetus as human, and the discourse of the movement is the driving force behind the proposal of these bills as well as the belief that they are even necessary. While the legislative effort to enact personhood-compliant legislation has not succeeded in passing an amendment at the federal or state level, the rhetorical practices and representational framework of the Personhood Movement is successfully altering the national discourse surrounding start of life and abortion. The extreme views of the Personhood Movement work to reconstitute the middle—making some of the tactics of the mainstream Pro-Life Movement seem moderate and reasonable by comparison.

Laws and Movement Communications Concomitance

Examining only laws or only advocacy communication offers a limited view of any movement. Movement discourse creates frames through which advocates form cognitive schemas and understand their world. Simultaneously, movement discourse drives action—often in the form of legislation. Laws have the power to reify or ironize competing visions of reality and competing visions of an ideal future in a way that standard discourse does not due to the authority represented by the law. Laws are a

powerful tool for nominalization. Laws contour the viable options for movement action and shape discourse just as movement discourse shapes laws—by providing model legislation or by lobbying on behalf of a particular cause and raising attention to it, for example. Essentially, the language of law and the language of movement communications co-constitute the frame that forms the basis for movement activism.

The Personhood Movement has an active legal consciousness that engages in intertextual practices and repetition to bolster its credibility and embed itself within a larger legislative discourse. The Pro-Life Movement as a whole, and personhood advocates, in particular, are often well versed in Supreme Court cases, quickly and rapidly comparing the holding in *Roe v. Wade* to *Dred Scott v. Sanford* (1857), extolling the virtues of *Gonzales v. Carhart*⁵ and *Harris v. McRae*⁶, or criticizing the decision in *Whole Women's Health v. Hellerstedt*⁷. In legislation, sponsors of personhood bills frequently cross-reference other legal documents or judicial holdings to create a lineage of precedence. An example of this can be seen in Texas' bill calling on the U.S. Congress to pass a federal Human Life Amendment. Not only does this practice situate a particular

⁵ *Gonzales v. Carhart* (2007) concerned the legality of a federal 'partial birth abortion' ban. The Partial-Birth Abortion Ban Act of 2003 was challenged on 5th Amendment grounds because it lacked exceptions necessary to protect the health of the mother. The composition of the Court much altered from *Stenberg v. Carhart* (2000), ruled 5-4 that the ban was not a violation of the constitution. In her dissent, Justice Ginsberg noted: "The Court's hostility to the right *Roe* and *Casey* secured is not concealed."

⁶ *Harris v. McRae* (1980) held that states participating in Medicaid were not required to provide funds for abortion procedures, upholding the Hyde Amendment.

⁷ *Whole Women's Health v. Hellerstedt* (2016) concerned Texas' 2013 omnibus anti-abortion bill H.B.2, which is representative of other Targeted Regulations of Abortion Providers (TRAP) Laws. At stake in the courts analysis was if a consideration of substantial burden could or should take into account the extent to which abortion restrictions actually promote the state's interest in protecting the health of women and whether or not Texas H.B. 2 amounted to undue burden. Finding that the substantial burden imposed on women seeking an abortion should be weighed against the actuality of a law achieving what it is purporting to through regulation, the Court held that Texas' H.B. 2 amounted to an unconstitutional burden.

effort to pass personhood legislation within a greater struggle, it creates a greater sense of importance and professionalism by calling on past legislation to validate itself.

Despite some of the more inflammatory rhetoric, the Personhood Movement is purposeful, strategic, and organized. Take, for example, tips on “How To Talk To Your Legislator” available from Personhood Alliance (2014) and Georgia Right to Life (2017): these documents are verbatim replicas of one another. The purpose of the document is to walk pro-life supporters through the process of communicating with their legislator for “personal visits, telephone calls, letter writing and rapid communication” (Personhood Alliance, 2014; Georgia Right to Life, 2017). This document is moderate in tone and proposes reasonable advice, drawing from psychological principles of argumentation and persuasion. Furthermore, it stresses the imperatives of repetition, reiteration, and sustained contact. The importance of this cannot be overstated: The Personhood Movement has tapped into certain understandings about the power of language that could promote even greater success. Repetition is significant at the level of individual thought because word choice, especially if a limited number of emotionally charged words are frequently reiterated, affects how individuals construct their thoughts, beliefs, and communications. All of these effect action. Repetition and sustained contact similarly are critical to advocacy and movement growth. Much of the success of the Pro-Life Movement is due to their level of engagement, emotive language, and creative, consistent efforts. Consistency is key. Repetition is key. This is why the movement uses phrases such as “The bottom line is always the same...” (American Life League, 2017) and constantly refer to the fetus as the unborn or preborn child. Repeating a statement may not make it factual, but it can make it true in an individual’s understanding of reality.

Looking at the success of the movement seeking to limit abortion and erode reproductive healthcare rights exposes a potentially crucial flaw in the strategy of choice advocates. There appears, at times, to be an assumption of rationality; an assumption that those engaged in conversations about abortion, healthcare, and choice will understand—and share—the position of the choice paradigm. There is a sincerely held belief that translates into much of the pro-choice side assuming that moderate individuals will comprehend the importance of protecting reproductive autonomy. This is a faulty assumption. Given the level of commitment and success of pro-life activism relative to pro-choice activism, one could be forgiven for thinking the pro-life side tries harder. However, I do not believe this to be true. Rather, I think the frame employed by the pro-life Personhood movement is more conducive to repetition and simplistic persuasion.

The frame constructed by the Personhood Movement is one defined by its absolutism. Truth is absolute and immutable—ordained by God (J. Brown, n.d.). When the Personhood Movement refers to the importance of law, it is just as likely they are talking about God’s Law, as explicated in the Bible, as it is they are talking about the Constitution or man’s law. The frame constructed by the Personhood Movement is one defined by a black and white, either/or mentality. It is rife with oversimplification and specious comparisons. The frame constructed by the Personhood Movement is one defined by its selectivity of focus—first God, then the unborn (J. Brown, n.d.). The woman, if she is referred to at all, is assigned the role and expectations of the mother.

This assessment is patriarchal and subjugates the lives and rights of women. The discursive tactics and position statements of the Personhood Movement demonstrate a clear hostility towards women through assigned positionality and outright erasure. An

example can be seen in the Personhood Iowa position statements which refer to the fetus as “the criminal’s innocent child” (n.d., a) in explaining their objections to exceptions for rape and incest; the woman carrying the child is not acknowledged in a parenting role of authority as soon as the man comes into the picture. This is blatantly inimical towards women. The legislation falling under the umbrella of Human Life Amendments are equally hostile towards the autonomy and rights of women, albeit in a subtler manner.

Throughout the paper, I have often noted a lack of exemptions in abortion bans: most of these laws lack exemptions for the health of the mother and most lack exemptions for cases of rape and incest. However, the language of exemptions is itself problematic. By discussing the instances in which women would be permitted an abortion, women have already been stripped of a right. Furthermore, by discussing the importance of exemptions for rape and incest—both horrific bodily violations—it signals that a woman lacks the right her own body and her own medical decisions until she has been horrifically violated. Abortion is a valid, and sometimes necessary, medical procedure. It is part of comprehensive health care. By limiting women’s access to abortion, the government is denying women full autonomy and, by extension, citizenship rights. Discussion of exemptions obfuscate this and utilizes language to conceal the true implications of an abortion ban for the standing of women as equal citizens.

This is the power of language. When the language of proposed legislation reflects the rhetoric of the Personhood Movement, it has the power to reify and validate their narrow conception of reality. Personhood legislation attempts to codify the status of the fetus as that of a person. While they may not have been successful to date, it is none-the-less influencing the conversation surrounding abortion and the start of life in this country.

The ways in which we conceptualize ideas is integrally rooted in the language we use to define, describe, and discuss those ideas. Increasingly, the terms used are in line with the rhetoric of personhood. In the pages that follow I draw attention to the altered terrain of the abortion political landscape and provide concrete examples of mainstream pro-life legislation made possible due to the rhetoric of personhood. I examine the effects of these laws for women, specifically the marginalized women most impacted by this type of legislation. I conclude by encouraging choice advocates to engage in reflexivity and soul-searching, as well as provide ideas on how to undermine the discursive practices of the Personhood Movement.

Reconstituting the Middle

The repetition and representations of personhood rhetoric have infiltrated the national consciousness. We are increasingly consuming more bits of information at even faster rates as opposing viewpoints compete for our attention and support across more platforms than ever before. The rhetoric of personhood offers easily digestible, easily repeatable soundbites that do not require deep cognitive engagement. It eliminates the complicatedness of grey zones and navigating compromises. In many ways, it encapsulates the polarized mentality of the contemporary political landscape.

The discourse and legislative efforts of the Personhood Movement have successfully altered the abortion political landscape in two notable ways: first, the linguistic choices and representational practices have greatly humanized the fetus and changed how society views the fetus. Second, the sustained presence of the personhood ideology in the national mindset has shifted the middle to the right, allowing for

successes from the mainstream Pro-Life Movement that are equally damaging (if not more so) to women's rights and abortion access.

Humanizing the fetus. Personhood websites work to humanize the fetus through visual representations and descriptive practices. The movement utilizes many different tactics to validate the construction of the fetus as a person deserving of full legal rights. One of the ways in which they try to humanize the fetus is by the discerning choice of language and labels. There is also a selective utilization and ridicule of science and medicine. Websites will contain statements holding up science as an arbiter of truth when it suits them—for example, discussing how the fetus is human and concluding “that’s just pure science” (American Life League, 2017)—and deride science when it potentially threatens their conception of reality—for example, “human fetus is just scientific jargon for little one” (American Life League, 2017). Reference to the fetus as little ones, preborn children, and unborn babies—often accompanied on the webpage with pictures of days or weeks-old infants—is another approach used by the Personhood Movement to humanize the fetus.

In terms of legislative efforts, the fetus is being humanized through the discursive practices of Human Life Amendments and the successes of mainstream efforts in other areas of law. Human Life Amendments humanize the fetus through their attempts to bestow the fetus with equal rights and protections from the first moments of development. These bills frequently assimilate language of the Personhood Movement through a similar pattern of inclusions and omissions as well as the use of the language, such as preborn and unborn child. Simultaneously, legislation from the mainstream Pro-Life Movement works to humanize the fetus in domains outside of constitutional law,

such as criminal and inheritance law. In many ways, this effort has been successful. For example, fetal homicide laws which allow charges to be brought against someone for the death of a fetus (Johnsen, 1986; Crist, 2010) and chemical endangerment laws, which have increasingly been used to punish pregnant women for behavior that may affect their fetus in utero, as noted by Kathryn Killeit:

There is concern that chemical endangerment laws intrude upon women's constitutional rights and carry alarming implications because they open the door for states to incarcerate women for engaging in an array of questionable, yet legal activities (2014, p. 455).

Would this even be a concern if we lived in a society in which our dominant discourses did not humanize the fetus at the expense of women?

While I maintain that discourse and how we talk about the fetus is crucial to the process by which the fetus is humanized, it would be dishonest to downplay the role of technology. The problem is partially how we 'see' the fetus in relation to the woman and in relationship to society (Holc, 2004, p. 766). This has become normalized in law, such as mandatory ultrasounds (Sanger, 2008) and informed consent laws (Ahmed, 2015; Daniels, Ferguson, Howard, & Roberti, 2016), as well as common social practices, such as voluntary ultrasounds and baby showers. Carol Sanger, the Barbara Aronstein Black Professor of Law at Columbia Law School, discusses the notion of social birth and the contributions of ultrasounds and social media to the conversations on the beginning of life. She explains how the increase in prominence of ultrasounds as part of routine perinatal care and the higher quality of ultrasounds, especially the new availability of three-dimensional ultrasounds, coupled with the increased prominence of social media,

creates a social birth independent of natal birth (2008). It is not uncommon for parents to create social media accounts for their offspring in utero—posting ultrasound images and status updates (Sanger, 2008; 2012b). These practices affect the cultural understandings of life and alter the conversation surrounding life.

Even with technology, language clearly is important to the social understanding of life and rights. Sanger (2008, 2012b) notes the language choices made by nurses performing ultrasounds reflects an understanding of this as nurses deliberately use different terms and phrases when the fetus appears to be in distress or to have a condition incompatible with life. In addition to social and medical communications acting to humanize the fetus and alter public discourse on life, the mainstream legislation also contributes. Informed consent laws, a darling of the mainstream Pro-Life Movement, establish scripts and pamphlets, written by legislatures consisting of members with little or no medical expertise, which doctors must read and provide to their patients. These documents contain shocking inaccuracies, but the most common error in informed consent packets is a speeding up of the development of human-like qualities (Daniels, Ferguson, Howard, & Roberti, 2016). As noted by Cynthia Daniels and her research team in their study of informed consent laws in the United States:

Fetal development was “accelerated” by misrepresenting development of certain body systems earlier than in developmental reality. And body systems that appear to attribute human “intentionality” or more “baby-like” characteristics to the embryo or fetus, such as breathing, seeing, crying, or experiencing pain, were more likely to be misrepresented at earlier stages of development (2016, p. 195).

Another example of mainstream pro-life laws that subtly work to cement fetal personhood in the public consciousness are “Missing Angel Acts,” which grant birth certificates to the parents of stillborns (Sanger, 2012b). While proponents of these laws contend they are important in order to recognize the parents and give a public record to their experience encompassing more than just their loss, opponents fear it created “compulsory mourning” and could have dangerous ramifications of the legal status of abortion (Sanger, 2012b).

What all of this contributes to is a discursive frame in which shifts are observable in how we see the fetus in relation to the government and in relation to how we see the woman. As the fetus becomes human and citizen, in the eyes of society and in the eyes of the law, the woman experiences an inverse phenomenon in which she is stripped of full citizenship rights and becomes viewed as less than fully human—while the fetus may be granted personhood, the woman is robbed of hers.

Relocating the Center. The extreme rhetoric of personhood discourse effectively relocates the center by altering what appears reasonable in comparison. The personhood mindset normalizes the fetus as a person in public and legislative discourse, acting as a “foot in the door” for additional gains in persuasive grounding. The personhood mindset, through its unwillingness to compromise, changes the terrain on which these conversations take place. The personhood mindset, by virtue of its severe rhetoric, locates the mainstream Pro-Life Movement in a prime position to bargain and make incremental gains. Due to personhood’s insistence on immediate legislative success, incremental approaches to eroding abortion rights are able to escape close scrutiny and masquerade as “common sense” or “good sense compromise” between pro-life and pro-choice stances.

Targeted Regulations of Abortion Providers (TRAP) bills, laws mandating fetal anesthesia, law concerning mandatory ultrasounds, waiting periods or informed consent, as well as laws allowing courts to take custody of embryos, and laws regulating the disposition of fetal tissue are all examples of mainstream pro-life legislation that benefits from the humanization of the fetus created by personhood discourse. At the same time, legislation of this nature does virtually nothing to promote the health or the well-being of the woman carrying the fetus while it actively works to perpetuate the notion of the fetus as a person, family member, and citizen.

Laws stipulating requirements for mandatory ultrasounds, counseling and waiting periods, and informed consent laws are often framed by the Pro-Life Movement as part of a woman's "right to know" (Sanger, 2012; Ahmed, 2015; Daniels, Ferguson, Howard, & Roberti, 2016). Despite being framed in pseudo-feminist language these laws are not protective of women. Instead, they are paternalistic, operating off of a presupposition that women are incapable of assessing their own needs in making reproductive decisions and require the assistance of the state as mediator. While during the witch hunt, the (male) doctor took over the role of the midwife (Federici, 2014). Today, the (typically male) legislator takes over the role of the doctor in making medical decisions for the woman (Ginsberg, 1985). In both of these instances the needs and wants of the woman—in fact, the woman herself—are erased from the picture. The discourse of personhood has made this seem acceptable.

Counseling and waiting period for abortions often go hand in hand. While consent is a standard requirement prior to initiation of a medical procedure, the regulations of informed consent for abortions is particularly targeted, egregious, and steeped in the

language of personhood. Thirty-five states mandate counseling and twenty-nine of these states stipulate what information is to be given (Guttmacher, 2017a). However, a 2016 nation-wide study indicated that “nearly one-third of the informed consent information was medically inaccurate” (Daniels, Ferguson, Howard, & Roberti, p. 181). Almost all of the states which require pre-abortion counseling require detailed information on fetal development; thirteen states require the woman be (mis)informed that the fetus is capable of feeling pain; six states informed consent includes the statement that personhood begins at conception; thirty-three states require that the woman be told the gestational age of the fetus (Guttmacher, 2017a). Furthermore, twenty-seven states require anywhere from twenty-four to seventy-two hours elapse between receiving the counseling and giving consent/undergoing the procedure, and many states require the information be conveyed in person—often necessitating multiple trips to a clinic (Guttmacher, 2017a; Daniels, Ferguson, Howard, & Roberti, 2016) The burdensome nature of these laws is exacerbated in states which mandate ultrasounds prior to abortions. Despite the fact that there is typically no medical reason for doing so in the first trimester, fourteen states require an ultrasound; in ten of the states the woman must be encouraged to view the fetus, and in three states the woman is required to view and listen to a description of the fetus. (Guttmacher, 2017b). These stipulations are codified into law based on the belief that if the fetus is humanized to the pregnant woman, she will forgo an abortion.

These laws, through requiring the woman to engage in an activity typically associated with motherhood, such as viewing the ultrasound, rely on the phenomenon of “social birth” to dissuade women from seeking abortions (Sanger, 2008) and are part of a spectrum of state endorsed coercive medical practices. The experience is made more

emotionally taxing for the woman as she additionally grapples with the confusion of state-sponsored misinformation campaigns dressed up as informed consent. The ability to exercise a right to personal autonomy becomes more time consuming, more emotionally taxing, and less economically viable through the implementation of mandatory ultrasounds, counseling, and waiting periods necessitating multiple trips to the clinic. This experience is compounded for low-income women and women dependent on Medicaid because the Hyde Amendment prohibits coverage of their care.

For women who are not situated in such a position that they have the support network to navigate the burdens imposed by these regulations, the result can be a profound social isolation that resembles banishment. A woman facing an unwanted pregnancy experiences alienation from a society in which the procedure she is attempting to procure is legal—yet, she may be treated as if she has gravely transgressed acceptability because the procedure has tremendous stigma purposefully and maliciously attached to it in a very public way. The legal environment surrounding abortion and reproductive rights has been carefully crafted—aided by personhood discourse—in order to make implicit claims about women, motherhood, and citizenship. These laws continue the infantilizing tradition of coverture (MacKinnon, 1984). By working off the assumption that women must be looked after and cared for as property, these laws ignore women’s agency and autonomy. Furthermore, they make presuppositions that take for granted motherhood as natural and desirable for all women. This is at play in the stigma surrounding abortion: regulatory efforts and the laws surrounding abortion stigmatize both the procedure—by making it seem more dangerous and akin to murdering innocent children—and the women who undergo the procedure—by making them seem deserving

of punishment and less than deserving of full citizenship rights for failure to protect ‘their children’ or being complicit in ‘their murder.’ While these laws clearly make gender-based claims on citizenship, the disproportionate effect they have on women of color, indigenous women, women whose primary language is not English, and rural women draws attention to the ways in which these regulations also construct racialized citizenship in addition to gendered citizenship.

Mainstream pro-life legislative successes have made abortion more onerous and burdensome to obtain in a number of states. For example, after Texas passed House Bill 2, their omnibus abortion bill, there was an increase from 10% to 44% in patients who traveled more than fifty miles to obtain an abortion. Nationally, 17% of women travel at least fifty miles, and 31% of women in rural areas travel over one-hundred miles to procure an abortion (Bearak, Burke, & Jones, 2016). Additionally, fewer clinics mean longer wait times. Delay in receiving abortion care can increase the associated costs and force women into a situation where they have to undergo a riskier procedure simply because they are at a later gestational stage. Increased distance between women and their healthcare provider also increases the risk to women if a complication arises as a result of the procedure.

Yet, all of this seems normal and acceptable to many legislatures and much of America due to the presence of personhood discourse in our national dialog. If this saves lives—which is a dubious claim⁸—then it can be argued that the Personhood Movement

⁸ Take, for example, Texas. Texas has remarkably restrictive pro-life policies designed to limit the number of abortions and protect families. Texas had an infant mortality rate of 5.7/1000 live births, or 2,287 infant deaths in 2016 (CDC, 2016). Furthermore, the maternal mortality rate is staggering at 35.6/ 100,000 live births; “If Texas were a country, it would have the highest maternal mortality rate in the developed world and would be on a par with Mexico or Turkey” (Quinn, 2017).

benefits, at least partially, from the mainstream Pro-Life Movement. Despite the harsh rebuke much of the mainstream Pro-Life Movement offers the Personhood Movement, they likewise benefit from the very movement they wish to distance themselves from. They share a mutually symbiotic relationship in which they diverge in tactics but not in goals. The mainstream Pro-Life Movement is able to maintain a cloak of respectability and reasonableness, while the Personhood Movement maintains a hardline stance. This relationship, while benefiting both groups, has a lopsided benefit for the Pro-Life Movement. Any success for personhood is a pro-life success. However, not every pro-life success is a success for personhood. The Personhood Movement is sincere in their conviction and dedication to pursuing an immediate strategy—that is why they oppose bills with exemptions. They do not favor an incremental strategy. They are not content to merely relocate the middle. They want the entire discourse to change.

The Dangers of Personhood Rhetoric and Where to Go from Here

The success of personhood rhetoric at shifting the footing of the debate is dangerous in how it enables the greater success of the mainstream Pro-Life Movement and normalizes a discourse of personhood at the expense of women's rights. The sheer degree of polarization of the personhood frame moves the middle to 'the right.' Someone arguing the choice stance may feel as though they must pick and choose which misstatements, distortions, or outright lies to refute because it is too daunting of a task to refute them all. Furthermore, they are so often repeated that they affect the cognitive schemas, including for people who do not believe that a fetus is a person. Even in the process of conducting this research and writing this analysis, I found myself occasionally referring to the pregnant woman as a mother or the fetus, in later stages of development,

as the child. Or, I found myself saying things like: ‘*ignoring x for a moment,*’ or, ‘*setting aside x to focus on...*’ This is problematic. Women cannot afford to ignore or set aside *x*, and we cannot afford to have our allies ignore or set aside *x*.

Pro-life legal victories create dangerous precedents which illuminated the path towards eroding reproductive freedoms through increasingly burdensome regulatory tactics. These factors come together with the discourse of personhood to create an insidious legal arrangement in which states and the federal government are emboldened to pass laws that have deleterious effects on women’s rights, health, and wellbeing, often dedicating their actions in the name of fetal rights. These laws disproportionately affect marginalized groups—such as indigenous women, women of color, rural women, and women of lower socioeconomic status (Smith, 2005; Williamson & Taylor, 2016; Bearak, Burke, & Jones, 2017; Hennessy-Fiske, 2016; Green, 2016; Upadhyay, Johns, Meckstroth, & Kerns, 2017). The normalization of personhood rhetoric cannot be allowed to continue unchallenged and unabated. The arguments of the Personhood Movement must be undermined, and the arguments against it must be strengthened.

Undermining the arguments of the Personhood Movement. Undermining the agenda of the Personhood Movement begins with understanding what their arguments are and how they leverage discourse to turn language into action. It requires examining how their rhetorical practices construct certain accounts as factual and undermine competing descriptions. It requires looking at their pragmatic intent and examining footing, stake, stake inoculation, and nominalization. It requires looking at how they ironize and reify worldviews through language (Potter, 1996). Discourse analysis hinges on the premise

that words are not only imbued with meaning but that they are specifically chosen and arranged by the actor for a purpose:

Fact construction and stabilization are not abstract concerns focused on truth and falsity but are bound up with, and inseparable from, practices of all sorts. Descriptive categories formulate the world in specific ways which are relevant to, and usable in, current activities. Describing and formulating are implicated in activities in many different ways (Potter, 1996: p.205).

The Personhood Movement has demonstrated an acute awareness of this, visible through their how-to guide's and web content as well as the content of the laws they attempt to pass. It is time to give the Pro-Life and Personhood Movements due credit for their intelligence, dedication, and persistence. Once this is accomplished, it is critical to counter them through:

Returning to a rights framework and bringing the woman back into the conversation. Yale Law scholar Reva Siegel draws inspiration from the transnational women's movement and women's rights arguments to imagine what could have been had the *Roe* decision reflected many of the amici briefs submitted to the court which resembled those made in *Abele v. Markle*⁹. Specifically, she poses the question: "What difference would it make if the court added an equality rationale to the privacy

⁹ *Abele v. Markle*, the 1972 class action suit in District Court for the District of Connecticut, popularly referred to as *Women vs. Connecticut*, had 858 complainants in a class action suit, all of them women, not doctors. The plaintiffs argued abortion restrictions were a violation of a woman's Fourteenth Amendment right to life, liberty, and equal protection, and that it was a further violation of the equal protection rights guaranteed to poor women. The plaintiffs also asserted a violation of privacy rights protected by the Ninth Amendment and that "by imposing motherhood on women for engaging in sex, a form of cruel and unusual punishment," abortion regulations violate the Eighth Amendment. Additional claims were made that they "violated the Thirteenth Amendment as a form of involuntary servitude...and violated the Nineteenth Amendment by forcing women to become mothers while organizing the core activities of citizenship to exclude caregivers" (Siegel, 2010, p. 1890-1892).

justification for abortion rights?” (2010, p. 1906) What if *Roe* had been able to offer a more convincing argument for a women’s right to abortion? Siegel contends:

Perhaps most obviously at stake is a question of constitutional authority. It is relatively safe to challenge constitutional privacy rights as ‘unenumerated,’ but, calling for the deprivation of rights that vindicate women’s equal citizenship is an altogether riskier business—not simply because equality rights have a clear textual basis in the Constitution, but also because equality rights have trumping political authority (2010, p. 1906).

Returning the woman to conversations surrounding reproductive healthcare, personhood, and rights is critical. By allowing personhood rhetoric to frame the arguments in terms of fetal rights, the rights of the living, breathing woman are sidelined. This is not some hypothetical life being discussed—the pregnant woman has rights and needs of her own that must be re-centered as a focal point in the conversation surrounding abortion rights as reproductive healthcare.

Leverage emotion. One way the woman can be re-centered in the argument is by leveraging emotions and utilizing the stories of women. While no woman should feel obligated to tell her story, those who have contribute a great deal to counteracting the discourse of personhood, which attempts to demonize abortion, the doctors who perform it, and even the women who have them. A recent legislative effort, trying the waters for future Pro-Life efforts, is a twenty-week abortion ban. This was a test of the extent to which fetal personhood has seeped into the national psyche. Many abortion opponents rely on the nearness to the point of viability and the humanlike qualities of the fetus at a

twenty-week gestational stage to vilify abortion and women who have abortions after that point of fetal development. The reality of the situation is only seven percent of abortions are after fourteen weeks, and less than two percent are after twenty weeks (Axelrod, 2018). But, facts and statistics do not make the best-selling points: emotions do. The reasons women have abortions after the twenty-week mark bear no resemblance to the talking points spread by the Pro-Life and Personhood Movements. The reasons women have abortions after the twenty-week mark are generally painful and heartbreaking: grave risk to like life or health of the mother or fetal abnormalities incompatible with life (Almendrala, 2018; Axelrod, 2018; Drexler, 2018). Abortion is not some horrible thing when considered in this context. Why should a woman be forced to bear a child with undeveloped or underdeveloped lungs? Why should a woman be forced to bear a child and watch it die because it was never equipped to survive outside of the womb? Many fetal abnormalities are not apparent until the ultrasound late in the second trimester. If the fetus will not survive, is it not more humane to allow the fetus to die (quite literally) surrounded by the person who loved it the most?

Portraying them as pro-birth, not necessarily pro-life. Many of the laws analyzed for this study sought to guarantee the right to equal protection of life “*at every stage of their biological development, irrespective of age, health, function, or condition of dependency.*” While this phrase is likely intended to prohibit euthanasia and physician-assisted suicide, it never-the-less has ramifications for zygotes and fetuses with anomalies precluding the possibility of sustained life. Being pro-life should be about more than simply ensuring a woman gives birth. Being pro-life should also incorporate caring about the health, well-being, education, etc. of the child after birth. Quality of life should

matter. People opposing the personhood and pro-life arguments would be wise to point out that concern for life should encompass a concern for the quality of life. Where is the support for social welfare programs? Why are there over 17,000 kids in the Arizona Foster Care system alone (Project Jigsaw, 2014)? One key way to undermine personhood and pro-life rhetoric is through evidentiary demonstration that their values do not always extend after birth.

Recognize they do not own the moral high ground. The stance of the Pro-Life and Personhood Movement is not the moral stance; claiming to do God's work obfuscates their role in their own actions and releases them of responsibility to consider the debate is more nuanced and encompassing than their perspective allows for. The notion behind this is similar to reclaiming the emotional aspect of the debate. Often times the pro-choice argument falters because we are unwilling to be unabashedly pro-abortion, which bolsters the argument that abortion is somehow morally wrong. Recognizing abortion as legitimate medical health care helps remove the argument from the realm of morals and draw attention to the needs of the woman.

Acknowledge shades of gray and nuance. This is the largest blind spot of the Personhood Movement—it is critical defenders of women's autonomy rights do not allow them to portray the world as purely black and white or oversimplified. By acknowledging that this debate is complicated, we are better situated to bring the woman back into the conversation. By acknowledging nuance, ourselves, we also protect ourselves from the accusation that we are being extreme or refusing to properly acknowledge alternate perspectives.

Call out false equivalencies. False equivalencies in personhood discourse are leveraged to vilify the Pro-Choice Movement by invoking imagery of slavery and the Holocaust—silence allows these misrepresentations to go unchallenged. It can be tempting to wish not to dignify these remarks with a response, but it is dangerous for this mindset to become normalized.

Leverage the popularity of in-vitro fertilization, stem cell research, and birth control. While abortion may be a polarizing subject, in-vitro fertilization, stem cell research, and birth control are much less controversial topics. Fetal personhood laws threaten all of these practices. Draw attention to the non-abortion issues of reproductive autonomy implicated in the debate on fetal personhood, such as contraception and fertility treatment; furthermore, call on legislators sponsoring Human Life legislation and personhood supporters to go on record about their intention for these laws with regard to fertility treatment, such as in vitro (Will, 2013).

Go on the offensive. “The best defense is a good offense” may be cliché, but it is true. The effort to protect women’s reproductive autonomy from pro-life and personhood legislative gains have been largely defensive and reactive. It is critical to shift this and work on proactive legislation that will protect the rights of women. Some states have begun this process and can provide a blueprint for future efforts.

A full-throated endorsement of women’s autonomy and rights. The most critical thing I wish to suggest is some genuine reflexivity and outright soul-searching on the part of the Pro-Choice Movement. It is not sufficient to be pro-choice when the mainstream movement has been entirely too quiet on issues of sterilization abuse, pharmaceutical companies engaging in “the promotion of unsafe, long-acting hormonal

contraceptives...for women of color, women on federal assistance, and women with disabilities” (Smith, 2005, p. 88), the Hyde Amendment, chemical endangerment laws being used to punish pregnant women, and the reproductive injustice experienced by female inmates (Roth, 2010; 2011) or females crossing the border. As Andrea Smith (2005) explains, “The history of Native women and colonial reproductive policies demonstrates the political bankruptcy of the ‘choice’ paradigm for articulating a reproductive rights agenda” (p. 98).

Choice is intimately bound up with possession and resources. The choice paradigm is not equally afforded to all and “the pro-choice position actually does not ascribe inherent rights to women either. Rather, women are ascribed reproductive choices if they can afford them or if they are deemed legitimate choice makers” (Smith, 2005, p. 99). Personhood legislative victory would potentially negate women as legitimate choice makers and abortion as a legitimate choice; mainstream pro-life legislation is increasingly rendering choice unaffordable and unavailable. For fear of risking certain successes in holding back the erosion of reproductive rights, the mainstream Pro-Choice Movement has been deafeningly silent on integral convictions and an inclusive vision. This silence has allowed certain aspects of the personhood framework to become accepted and mainstream pro-life victories to go unchecked.

What is required then, is a full-throated endorsement of the rights and autonomy of women—all women, without exception. We need to do better. It is essential that we shift the frame to a rights framework which recognizes and validates the citizenship rights and autonomy of women. It is equally critical that this not become a hollow rebranding exercise, but instead re-centers genuine convictions on the equality and

importance of all women. Once this adjustment is made, a Pro-Woman Movement would be better situated to authentically disassemble the discursive practices of personhood that contribute to detrimental pro-life gains.

CHAPTER 7

CONCLUSION

Limitations of Current Study

While I have endeavored to conduct a thorough and rigorous analysis, I acknowledge that there are limitations to this study. Perhaps chief among them could be that it offers the perspective of a single researcher. This is only partially valid—and, even then, much less so than one might assume. No research is the result of a sole individual. None. Even in the absence of a research team, the research and drafting processes are a collaboration in which multiple opinions and sets of eyes bear influence on the final product. Here, too, that is the case. While complete objectivity may be a myth, I still took measures to check my interpretations with others as a way of verifying that my findings were consistent with the data driving them; I sought data from a variety of sources and conducted an intertextual reading as a way of limiting my bias on the research results.

Another potential critique of the study is the relatively small sample size from a narrow slice of available data. Given that the exposure was strictly archival written texts, there is a lack of “actualized” praxis. I did not have the opportunity to observe the fetal Personhood Movement communicate their message in real life. However, this is not necessarily a fatal flaw. I still managed to ascertain a tremendous amount about the effects of discursive frames on worldview and legal consciousness by reading across data sets and examining both “how to” guides and proposed bills.

Furthermore, despite the fact that all texts gathered for this research were publicly available, they still give a glimpse into the “off-stage” and offer a look at the quasi-hidden transcripts (Scott, 1990). Take, for example, “7 Ways to Change How you Speak

about Abortion;” this is posted publicly, visible to anyone who looks for it. However, it clearly has an intended audience of pro-life, pro-personhood activists who are going forward to spread the message of life. While the majority of the document is acerbic in tone, it takes a shift towards the end¹⁰. This offers a glimpse into the quasi-hidden communication of the movement and demonstrates their level of awareness of issues such as footing, stake, and stake inoculation. While this insight is not the same as being embedded within a group, the publicly available private advice giving provided valuable understandings none-the-less.

Conclusion

Pro-life legal scholars and activists are often quite realistic about the amount of work and certainty of a “protracted legal effort” (Galebach, 1984, p. 123) required to pass and ratify a Human Life Amendment. However, many maintain that it is a moral imperative because leaving any form of life unprotected is unacceptable and—in their view—should be unconstitutional. They take hope in the idea that, while *Roe v. Wade* (1973) may have declared a fetus was not a person for the purpose of the 14th Amendment, the ruling does not explicitly eliminate the possibility of a fetus being a person for other purposes—if the fetus can be recognized as a person for other purposes,

¹⁰ The specific example I am thinking of is notable in their coaching:

“These are just a few ideas to help you modify your language in order to foster a more pro-life culture. There are many other ways to do this, but hopefully these provide some food for thought and a starting point...it is probably worth pointing out that there are circumstances where using these terms is not the most effective thing to do. I don’t recommend using them in all circumstances, but only when their use will help further the pro-life mindset or provide clarity and contemplation of the problems with the pro-abortion stance...When speaking to a woman who has had an abortion, it’s not likely to be very kind or very effective to speak of her going to an abortion mill to commit abortion. When talking to people who are trying to converse rationally and calmly about the topic of abortion, it may not be best to continually call them pro-aborts...So using a little wisdom in how you insert these terms into your speech is recommended.” (Harold, 2017)

it is only a matter of time before a larger attitudinal shift can change the constitutional status as well. Some advocates of personhood contend incremental victories in attaining recognition for fetal rights in states like Texas will set the stage for a major fetal rights victory: the recognition of the legal presence of the fetus in tort law, property law, criminal law, etc. undermine one of the central presuppositions of *Roe v. Wade*, and will thus lead to *Roe's* undoing (Wagner, 2010). This logic rests on inconsistency in existing law, asking: “How could its statute support the contention that a fetus is a person and then allow for the killing of a fetus in certain scenarios” (Wagner, 2010, p. 1093)? There is a theme of an overly simplistic view that a Human Life Amendment, defining life from the moment of conception, and incremental redefinitions of personhood would protect unborn life and end abortion. This neglects the reality that the constitution *does not* guarantee life—if guarantees *the state will not deprive* a person of life *without due process*.

Other scholars examining feticide laws and addressing concerns about how they reclassify the fetus as a person in criminal laws reject the notion that these laws will contribute to the success of fetal personhood because there is a difference between legislative personhood and natural personhood. Statutes bestowing rights or legal recognition of the fetus protect States’, not fetal interests (Forsythe, 1996; Forsythe and Burke, 2007; Crist, 2010). Forsythe (1996) makes a similar observation, noting the distinction between state and federal law as well as criminal and constitutional law:

A constitutional amendment is not a criminal code; it does not act to proscribe criminal conduct. An amendment that gave unborn children the protections of the 14th Amendment would not touch individual conduct,

only state action. States don't usually commit abortions, individual abortionists do. Likewise, a constitutional amendment is not self-enforcing. An amendment would need enabling legislation at the federal or state level to effectively touch individual conduct (p. 1-2).

This is at the heart of what causes Linton to remark “the recognition of ‘personhood,’ although desirable, is not the ‘cure-all’ for ending abortion” (2009, p. 61) .

While personhood is debated as a “silver bullet” to end abortion, the incremental approach towards eroding abortion rights and establishing fetal rights through personhood compliant laws and proposed Human Life Amendments are strong examples of how “reproductive practices themselves constituted a social text to which many cultural contestants laid claim” (Holc, 2004, p. 762). Often, women get lost in the conversation—sidelined completely (Holc, 2014; Johnsen, 2014; Ginsberg, 1985; Siegel, 2010; Madrazo, 2014). This is significant because laws contribute to the framework through which citizens understand and make sense of their worlds. Legislative efforts aimed at regulating reproductive practices contribute to how citizens categorize and interpret identity for themselves and others. These categories play a broader role in a sense of belonging or a proclivity towards “othering”: (Holc, 2004, p. 760). Beyond implications for self-identity, the introduction of personhood into the legal and cultural discourse contributes to the way societies view fetuses and the women carrying them. This contributes to “factors enabling the fetus to silence the woman” (Holc, 2004, p. 759) and is one of the ways in which women are relegated to a supporting cast role. Here, they are background figures who are involuntarily constructed as mothers—along with all the

attributes and stereotypes implicitly attached based on the woman's positionality (Madrazo, 2014, p. 333).

Utilizing legal avenues, the state constructs a social environment in which abortion is viewed in a negative light and stigmatized within the community. This creates a situation in which women are less likely to receive the support they need and more likely to take furtive measures. Abortion, a currently legal act, becomes a social transgression—something that only severely misguided or immoral women would consider a viable option. In this way, what a moral woman or a good mother is defined to be is also constructed through abortion restrictions. This dichotomy perpetuates the social stigma of abortion and additionally contributes to racializing the conversation due to the disparate effects of reproductive injustice. By creating the “bad mother” archetype the state now has a powerful propaganda tool it can leverage to attempt to shore up racial solidarity over gender solidarity in order to “[blunt] the radical potential of women’s political participation” (Olson, 2004, p. 57).

The normalization of the discourse of personhood contributes immensely to this process. Thus, even without a legislative victory in the form of a Human Life Amendment, the Personhood Movement is having an impact. An overly simplified worldview and a black and white mentality are visible in the discursive and framing practices of the fetal Personhood Movement across multiple levels and sites of analysis. The linguistic choices demonstrate, constitute, and reinforce the dominant narratives of the movement that are integral to advocacy, praxis, and legislative efforts. Movement cognition is shaped by a repetitive engagement with emotionally charged rhetoric which relies on patterns of omission and exclusion, troubling phrases, and the power of labels.

The rhetorical practices and representational framework of the Personhood Movement are altering the national discourse surrounding start of life and abortion. The extreme views of the Personhood Movement change the debate and relocate the middle—effectively allowing for dangerous pro-life legislation to slide by under the radar because they seem mild in comparison to the hyperbolic rhetoric of the Personhood Movement.

This poses a danger to women and disproportionately impacts poor, rural, minority, indigenous, and otherwise marginalized women. For all these reasons, it is critical that the representational, discursive, and framing practices of the Personhood Movement are undermined. I call on the Choice Movement to be rigorously honest with themselves and take a thoroughly reflexive self-assessment—to recognize areas in which an over-willingness to compromise has excluded certain bodies, to remedy this lack of conviction in the movement, and to move forward with a full-throated endorsement of women’s autonomy and rights.

Directions for Future Research

Future research would be well served to take a deeper dive into the movement and available texts. There are more bills, more organizations, and more websites, as well as a variety of different methodologies that could be utilized. The gathering of ethnographic or interview data could enable observing the discourse as an interactive exchange where both sides are visible. This could also make discernable the level of commitment and, with proper exposure, facilitate further analysis of differences *within* the Personhood Movement.

I argue that, despite some verbal sparring, the Pro-Life and Personhood Movements have a symbiotic relationship. Engaging a stronger temporal focus and

examining pro-life and pro-personhood legislation in tandem could help illuminate the degree to which the movements affect each other. In the future, it would be wise to conduct research designed to assess the effect of repetitive exposure to the personhood framework on cognition, subsequent debates, and voting tendencies.

The study of the Personhood Movement and their legal construction offers many research possibilities across disciplines: law, psychology, communication, political science, etc. For the sake of effective advocacy, it is important future research ask, and try to answer in detail: who, exactly, are these people? How active are they in their advocacy? How organized are they? (Hint: very.) Choice advocates need to take a good look at their own work, and then further ask: what more can be done to undermine the personhood rhetoric and its effects? Is it possible to reconstitute the middle? And, is it even desirable to find a compromise?

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APPENDIX A

EXAMINED FEDERAL HUMAN LIFE AMENDMENT PROPOSALS, 1973-1983

| Year | Bill Designation | Bill Name |
|-------------|-------------------------|---|
| 1973 | H. J. Res. 261 | Hogan Amendment |
| 1973 | H. J. Res. 472 | Whitehurst Amendment |
| 1973 | S. J. Res. 119 | Buckley Amendment |
| 1973 | H. J. Res. 769 | Burke Amendment |
| 1974 | H. J. Res 1041 | Roncallo Amendment |
| 1975 | S.J. Res. 6 | Helms Amendment |
| 1975 | S. J. Res. 11 | National Right to Life Council (NRLC) Amendment |
| 1975 | S.J. Res. 91 | Scott Amendment |
| 1975 | H.J. Res. 681 | Noonan Amendment |
| 1979 | H. J. Res. 294 | Paramount Amendment |
| 1981 | S.J. Res. 110 | Hatch Amendment |
| 1981 | S. J. Res 137 | NRLC Unity Amendment |
| 1983 | S. J. Res. 3 | Hatch Eagleton Amendment |

APPENDIX B

EXAMINED FEDERAL HUMAN LIFE AMENDMENT PROPOSALS, 2003-2017

| Year | Bill Designation | Bill Name |
|-------------|-------------------------|--------------------------------|
| 2003 | H.R. 3069 | Right to Life Act |
| 2005 | H.R. 552 | Right to Life Act |
| 2009 | H.R. 881 | Right to Life Act |
| 2011 | H.R. 374 | Life at Conception Act |
| 2013 | H.R. 1091 | Life at Conception Act |
| 2017 | S. 231 | Life at Conception Act of 2017 |
| 2017 | H.R.681 | Life at Conception Act |

APPENDIX C

EXAMINED STATE HUMAN LIFE AMENDMENT-STYLE LEGISLATIVE
PROPOSALS

| Year | State | Designation |
|-------------|----------------|---|
| 2004 | North Dakota | ND Measure 1, "Life Begins at Conception" Amendment |
| 2008 | Colorado | CO Initiative 48 |
| 2017 | Alaska | AK House Bill 250 |
| 2017 | Indiana | IN House Bill 1134 |
| 2017 | Iowa | IA House File 297 |
| 2017 | Iowa | IA Senate File 253 |
| 2017 | Kansas | KS House Concurrent Resolution 5009 |
| 2017 | Kansas | KS Senate Concurrent Resolution 1607 |
| 2017 | Michigan | MI House Bill 4279 |
| 2017 | Missouri | MO House Bill 14, "Missouri Right to Life Act" |
| 2017 | Missouri | MO House Joint Resolution 18 |
| 2017 | South Carolina | SC Bill 217, "Personhood Act of South Carolina" |
| 2017 | Texas | TX Senate Joint Resolution 9 |
| 2017 | Texas | TX House Joint Resolution 104 |
| 2017 | Texas | TX House Joint Resolution 121 |
| 2017 | Texas | TX House Joint Resolution 122 |
| 2017 | Texas | TX House Joint Resolution 123 |

APPENDIX D

EXAMINED PERSONHOOD WEB CONTENT

| Organization | Article/Content | URL |
|-----------------------|---|---|
| Abolish Abortion | Abolish Abortion App | http://abolishabortion.com/ |
| American Life League | Homepage | www.all.org |
| American Life League | Policy and Politicians | https://www.all.org/learn/policy-and-politicians/ |
| American Life League | Talk the Talk | https://www.all.org/get-involved/activist-materials/talk-the-talk/ |
| American Life League | Speaking the Gospel of Life | https://www.all.org/get-involved/activist-materials/speaking-the-gospel-of-life/ |
| American Life League | Declaration on Truth and Life | https://www.all.org/get-involved/activist-materials/declaration-on-truth-and-life/ |
| American Life League | Sidewalk Counselors Guidebook | https://www.all.org/get-involved/activist-materials/sidewalk-counselors-guidebook/ |
| American Life League | Pro-life in the Workplace | https://www.all.org/get-involved/activist-materials/pro-life-in-the-workplace/ |
| Florida Personhood | Personhood Petitioning Script | http://www.personhoodfl.com/get-involved/petitioning-script/ |
| Georgia Right to Life | Homepage | http://www.grtl.org |
| Georgia Right to Life | How to Talk to Your Legislator | http://www.grtl.org/?q=how-to-talk-to-your-legislator |
| Georgia Right to Life | Position Statements | http://www.grtl.org/?q=grtl-position-statements |
| Georgia Right to Life | Why We Must Vote Pro-Life | http://www.grtl.org/?q=why-we-must-vote-pro-life |
| Personhood Alliance | Homepage | www.personhood.org |
| Personhood Alliance | Personhood Advocates | https://www.personhood.org/personhood-advocates |
| Personhood Alliance | Personhood—Being Pro-life in the 21st Century | https://www.personhood.org/strategy/personhood-being-pro-life-in-the-21st-century |

| | | |
|---------------------|--|---|
| Personhood Alliance | Montana Anesthesia Abortion Bill -- It's OK to Kill Your Victim as Long as They Don't Feel Pain? | https://www.personhood.org/press/opinion/590-montana-anesthesia-abortion-bill-it-s-ok-to-kill-your-victim-as-long-as-they-don-t-feel-pain |
| Personhood Alliance | Tips on Talking With Your Legislator | https://www.personhood.org/political/personhood-in-politics/tips-on-talking-with-your-legislator |
| Personhood Alliance | 7 Ways to Change How you Speak about Abortion | https://www.personhood.org/political/personhood-in-politics/7-ways-to-change-how-you-speak-about-abortion |
| Personhood Alliance | Candidate Talking Points and Policy Manual | https://www.personhood.org/political/personhood-in-politics/candidate-talking-points-and-policy-manual |
| Personhood Alliance | Abortion Holocaust Memorial Wall | http://www.personhood.org/presentation/index.php |
| Personhood Iowa | Race and Incest | http://personhoodiowa.com/rape-and-incest/ |
| Personhood Iowa | The Mother's Life | http://personhoodiowa.com/the-mothers-life/ |
| Pro-Life Future | Homepage | http://prolifefuture.org/personhood/ |
| Pro-Life Future | Why Should You Care About Abortion? | http://prolifefuture.org/why-should-you-care-about-abortion/ |
| Pro-Life Future | Start a Chapter | http://prolifefuture.org/start-a-chapter/ |
| Pro-Life Future | Get Educated | http://prolifefuture.org/get-educated/ |
| Pro-Life Future | Pro-life Apologetics | http://prolifefuture.org/pro-life-apologetics/ |
| Pro-Life Future | Pro-life Legal Help | http://prolifefuture.org/pro-life-legal-help/ |

APPENDIX E

SELECTED CODING FROM EXAMINED FEDERAL BILLS,
1973-1983 AND CONTEMPORARY

| Coding | Phrasing | # | Source Text |
|--------------------------|--|----------|---|
| Fetal/female relation | "irrespective of...condition of dependency" | 4 | SJ Res 119 (1973) HJ Res 769 (1973) SJ Res 11 (1975) SJ Res 137 (1981) |
| Fetal/female relation | "irrespective of...condition of physical dependency" | 1 | HJ Res 681(1975) |
| Fetal/female relation | "without regard to...condition of dependency" | 1 | HJ Res 294 (1979) |
| Humanizing fetus | "unborn offspring" | 2 | SJ Res 119 (1973) HJ Res 769 (1973) |
| Humanizing fetus | "the unborn" | 1 | HJ Res 681 (1975) |
| Humanizing fetus | "unborn offspring;" "unborn person" | 2 | SJ Res 11 (1975) SJ Res 137 (1981) |
| Humanizing fetus | "unborn human life" | 1 | HJ Res 1041 (1974) |
| Humanizing fetus | "preborn human person;" "human being" | 7 | HR 3069 (2003) HR 552 (2005) HR 881 (2009) HR 374 (2011) HR 1091 (2013) S. 231 (2017) HR 681 (2017) |
| Fetus as subject/citizen | "human being, subject to the jurisdiction of the United States." | 1 | SJ Res 6 (1975) |
| Fetus as subject/citizen | "human being,...within its jurisdiction." | 1 | HJ Res 261 (1973) |
| Omitted (woman) | | 12 | SJ Res 110 (1981) HJ Res 261 (1973) SJ Res 3 (1983) SJ Res 6 (1975) HJ Res 681 (1975) SJ Res 11 (1975) |

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|--------------------------------------|---|----|--|
| | | | HJ Res 294 (1979) HJ Res 1041 (1974) SJ Res 91 (1975) HJ Res 427 (1973) HR 3069 (2003) HR 552 (2005) |
| Mother role & fetus/female relations | “her unborn child” | 5 | HR 374 (2011) HR 1091 (2013) S. 231 (2017) HR 681 (2017) HR 881 (2009) |
| Exemption— Death of Mother | “this article shall not apply in an emergency when a reasonable medical certainty exists that continuation of the pregnancy will cause the death of the mother.” | 1 | SJ Res 119 (1973) |
| Exemption— Death of Mother | “No abortion shall be performed by any person except under and in conformance with law permitting an abortion to be performed only in an emergency when a reasonable medical certainty exists that continuation of the pregnancy will cause the death of the mother...” | 1 | HJ Res 769 (1973) |
| Exemption— Death of Mother | “nothing in this article shall prohibit a law permitting only those medical procedure required to prevent the death of the mother.” | 1 | SJ Res 11 (1975) |
| Exemption— Death of Mother | “nothing in this article shall prohibit a law allowing justification to be shown for only those medical procedures required to prevent the death of either the pregnant woman, or her unborn offspring...” | 1 | SJ Res 137 (1981) |
| No Exemptions | | 11 | SJ Res 110 (1981) SJ Res 3 (1983) SJ Res 6 (1975) HJ Res 261 (1973) HJ Res 681 (1975) |

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|---|--|---|---|
| | | | HJ Res 294 (1979) HJ Res 1041 (1974) SJ Res 91 (1975) HJ Res 427 (1973) HR 3069 (2003) HR 552 (2005) |
| Exemptions-- criminal prosecution of woman | "nothing in this Act shall be construed to require the prosecution of any woman for the death of her unborn child" | 3 | HR 374 (2011) HR 1091 (2013) HR 681 (2017) |
| Exemptions— criminal prosecution of woman | “nothing in this act shall be construed to authorize the prosecution of any woman for the death of her unborn child.” | 1 | HR 881 (2009) |
| Exemptions-- criminal prosecution, birth control, fertilization technology | "nothing in this Act shall be construed to require the prosecution of any woman for the death of her unborn child, a prohibition on in vitro fertilization, or a prohibition on use of birth control or other means of preventing fertilization" | 1 | S. 231 (2017) |
| Naming Practices | "Right to Life Act" | 3 | HR 3069 (2003) HR 552 (2005) HR 881 (2009) |
| Naming Practices | "Life at Conception Act" | 4 | HR 374 (2011) HR 1091 (2013) S. 231 (2017) HR 681 (2017) |

APPENDIX F

SELECTED CODING FROM EXAMINED STATE BILLS

| Coding | Phrasing | # | Source Text |
|---|--|----------|--|
| Exemption-- contraception | "This section shall not be construed to...prohibit the use of any means of contraception." | 2 | IA HF 297 (2017) IA HF 253 (2017) |
| Exemption--Criminal or civil prosecution | "This section shall not be construed to...impose civil or criminal liability on a woman upon whom an abortion is performed" | 2 | IA HF 297 (2017) IA HF 253 (2017) |
| Exemption--criminal prosecution in medical emergency | "nothing in this section shall be construed to require prosecution of a woman for the death of her unborn child if there is a diagnosis made by a medical practitioner of an imminent threat to the life of the mother and of the fetus..." | 1 | MI HB 4279 (2017) |
| Exemptions (none) | | 2 | TX SJR 9 (2017- 2018) TX HJR 122 (2017) |
| Exemptions--criminal prosecution, in vitro, birth control | "nothing in this Act shall be construed to require the prosecution of any woman for the death of her unborn child, a prohibition on in vitro fertilization, or a prohibition on use of birth control or other means of preventing fertilization" | 2 | TX HJR 123 (2017) TX HJR 121 (2017) |
| Exemptions--medical emergency | "Subsections (c) or (d) do not prohibit a person from receiving an abortion if: (1) the case is a medical emergency as defined by..." | 1 | TX HJR 121 (2017) |
| Exemptions--rape or incest | "Subsections (c) or (d) do not prohibit a person from receiving an abortion if:... (2) the pregnancy was induced by cause of product of rape or incest" | 1 | TX HJR 121 (2017) |

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|---------------------------|--|---|--|
| Fetal/female relations | "irrespective of...condition of dependency" | 2 | KS SCR 1607 (2017) KS SCR 5009 (2017) |
| Humanizing Fetus | "unborn child" | 3 | TX SJR 9 (2017-2018) TX HJR 122 (2017) TX HJR 121 (2017) |
| Humanizing Fetus | "citizen of this state" | 2 | TX SJR 9 (2017-2018) TX HJR 123 (2017) |
| Humanizing Fetus | "unborn children;" "unborn child" | 1 | TX HJR 123 (2017) |
| Humanizing Fetus | "right to life of all humans, born and unborn" | 1 | MO HB 14 (2017) |
| Humanizing Fetus | "human being" | 2 | KS SCR 1607 (2017) KS SCR 5009 (2017) |
| Humanizing Fetus | "preborn humans" | 2 | KS SCR 1607 (2017) KS SCR 5009 (2017) |
| Humanizing Fetus | "unborn human child" | 1 | MO HB 18 (2017) |
| Language of war, violence | "exercise its police powers" | 2 | KS SCR 1607 (2017) KS SCR 5009 (2017) |
| Language of war, violence | "remain a class of human beings that can intentionally be killed." | 2 | KS SCR 1607 (2017) KS SCR 5009 (2017) |
| Mother role | "her unborn child" | 3 | TX HJR 123 (2017) TX HJR 121 (2017) MI HB 4279 (2017) |
| Mother role | "life of the mother" | 1 | MI HB 4279 (2017) |

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|------------------------------|---|---|---|
| Omitted (woman) | | 3 | TX SJR 9 (2017-2018) TX HJR 122 (2017) MO HB 14 (2017) |
| Woman as victim | "woman upon who an abortion is performed" | 2 | IA HF 297 (2017) IA HF 253 (2017) |
| Scientific Jargon | "the species homo sapiens" | 3 | TX HJR 123 (2017) TX HJR 121 (2017) MI HB 4279 (2017) |
| Scientific Jargon | "fetus" | 1 | MI HB 4279 (2017) |
| Scientific Jargon | "fertilized embryo that is no longer in utero" | 1 | MI HB 4279 (2017) |
| Scientific Jargon | "biological development" | 3 | KS SCR 1607 (2017) KS SCR 5009 (2017) MO HB 18 (2017) |
| Scientific Jargon | "gamete," "ovum," "zygote" | 2 | IA HF 297 (2017) IA HF 253 (2017) |
| Specific mention of abortion | "abortion is prohibited in this state" | 4 | TX SJR 9 (2017-2018) TX HJR 123 (2017) TX HJR 122 (2017) TX HJR 121 (2017) |
| Specific mention of abortion | "Nothing in this constitution secures or protects a right to abortion or requires the funding of abortion." | 1 | MO HB 18 (2017) |
| Specific mention of abortion | "This section shall not be construed to create or recognize a right to an abortion" | 2 | IA HF 297 (2017) IA HF 253 (2017) |

APPENDIX G

SELECT CODING FROM EXAMINED WEB CONTENT

| Coding | Phrasing | Source |
|----------------------|---|-------------------------------------|
| Humanizing fetus | "child in womb" | Talk the Talk (ALL) |
| Humanizing fetus | "the baby is a person" | Talk the Talk (ALL) |
| Humanizing fetus | "preborn child" | Talk the Talk (ALL) |
| Humanizing fetus | "newly created human being" | Rape and Incest (PI) |
| Humanizing fetus | "unborn child" | The Mothers Life (PI) |
| Humanizing fetus | "the baby" | The Mothers Life (PI) |
| Humanizing fetus | "both patients" | The Mothers Life (PI) |
| Humanizing fetus | "the child" | The Mothers Life (PI) |
| Humanizing fetus | "preborn baby" | The Mothers Life (PI) |
| Humanizing fetus | "the preborn child is a person" | The Mothers Life (PI) |
| Humanizing fetus | "preborn humans" | What We Do To Help (PI) |
| Humanizing fetus | "child" | What We Do To Help (PI) |
| Humanizing fetus | "preborn children" | What We Do To Help (PI) |
| Humanizing fetus | "most innocent of our brothers and sisters" | Declaration of Truth and Life (ALL) |
| Humanizing fetus | "her baby" | Why We Must Vote Pro-life (GRTL) |
| Humanizing fetus | "innocent child" | Why We Must Vote Pro-life (GRTL) |
| Humanizing fetus | "the unborn" | Why We Must Vote Pro-life (GRTL) |
| Language of violence | "to kill a preborn baby" | The Mothers Life (PI) |
| Language of violence | "the dehumanization and murder of preborn children" | What We Do To Help (PI) |
| Language of violence | "the pro-life fight is God's battle" | Declaration of Truth and Life (ALL) |
| Language of violence | "her baby destroyed" | Why We Must Vote Pro-life (GRTL) |
| Language of violence | "This violent solution" | Why We Must Vote Pro-life (GRTL) |

| | | |
|-----------------------|--|-------------------------------------|
| Language of violence | "killing of an innocent child" | Why We Must Vote Pro-life (GRTL) |
| Science (belittling) | "By the way, human fetus is just scientific jargon for little one" | Talk the Talk (ALL) |
| Science (belittling) | "fallible theories" | Declaration of Truth and Life (ALL) |
| Science (Invoking) | "...and that's just pure science" | Talk the Talk (ALL) |
| Science (Invoking) | "personhood for every human being exists and forever will exist from the first moment of biological development" | Declaration of Truth and Life (ALL) |
| Woman (assigned role) | "the mother" | The Mothers Life (PI) |
| Woman (assigned role) | "her baby" | Why We Must Vote Pro-life (GRTL) |
| Woman (Erased) | refers to pregnancy as the result of incest as "the criminal's children" and "criminal's innocent children" | Rape and Incest (PI) |
| Woman (independent) | "pregnant woman" | The Mothers Life (PI) |
| Woman (omitted) | | Rape and Incest (PI) |
| Woman (omitted) | | What We Do To Help (PI) |
| Woman (omitted) | | Declaration of Truth and Life (ALL) |
| Woman (victim) | "each time an abortion occurs, a woman is victimized" | Why We Must Vote Pro-life (GRTL) |

APPENDIX H

SELECT CODING FROM EXAMINED WEB CONTENT: OVERSIMPLIFICATION
SUB-CODING

UMRELLA CODE: OVERSIMPLIFICATION

| Coding | Phrasing | Source |
|---|--|-------------------------------------|
| Absolutism | "absolute Truth" | Declaration of Truth and Life (ALL) |
| Absolutism | "God's objective Truth" | Declaration of Truth and Life (ALL) |
| Absolutism | "not a compilation of personal opinions and fallible theories" | Declaration of Truth and Life (ALL) |
| Absolutism | "Objective Truth exists. It does not change." | Declaration of Truth and Life (ALL) |
| Absolutism | "a complete, unwavering commitment to God and the babies" | Declaration of Truth and Life (ALL) |
| Absolutism | "Only Truth can be our point of unification" | Declaration of Truth and Life (ALL) |
| Absolutism | "unity has no value without adherence to absolute truth" | Declaration of Truth and Life (ALL) |
| Absolutism | "a complete, unwavering commitment to God and the babies" | Declaration of Truth and Life (ALL) |
| If/Then | If we make this commitment, I am confident that God will bless our efforts. | Declaration of Truth and Life (ALL) |
| If/Then; Either/or; removing the middle | "Either the preborn child is a person, or the child is not a person. Since the preborn child is a person, there can be no exception for abortion." | The Mothers Life (PI) |
| Removing the middle | "Once pro-lifers say there can be a 'good reason' to kill a preborn baby, the foundation of the pro-life movement | The Mothers Life (PI) |

| | | |
|---------------------|---|-------------------------------------|
| | crumbles. The argument is lost." | |
| Removing the middle | "there is no conceivable circumstance (exception) that justifies an abortion" | Declaration of Truth and Life (ALL) |
| Removing the middle | "no one is exempt" | Declaration of Truth and Life (ALL) |
| Removing the middle | "the bottom line is always the same..." | Talk the Talk (ALL) |
| Removing the middle | "just as non-negotiable" | Talk the Talk (ALL) |
| Removing the middle | "that's just the way..." | Talk the Talk (ALL) |
| Removing the middle | "If one claims to be 'pro-choice,' it means that the person has no problem with the object of the choice, abortion." | Talk the Talk (ALL) |
| Specious comparison | "Since the country began, the issues that move us have been different and varied. The issue of discrimination is a case in point. The "Dred Scott" Supreme Court decision in 1857, denying personhood to black Americans" | Why We Must Vote Pro-life (GRTL) |
| Thou shall nots | "one should never attempt to codify in the Law the importance of one innocent human life above another." | The Mothers Life (PI) |

APPENDIX I
SAMPLE SUB-CODING AND ANALYSIS EXCERPT

Source: THE-MOTHERS-LIFE
Personhood Iowa
<http://personhoodiowa.com/the-mothers-life/>

Quotations used to ironize

Once pro-lifers say there can be a “good reason”

Kill=language of violence

Preborn baby=humanizing fetus

to kill a preborn baby,

the foundation of the pro-life movement crumbles.

Oversimplified, all or nothing thinking; leaves no room for middle ground.

The argument is lost.

Hyperbolic; oversimplified, all or nothing thinking

Either the preborn child is a person,

Preborn child=humanizing fetus

Oversimplified, either/or sentence structure--limiting

or the child is not a person.

Preborn child=humanizing fetus

Since the preborn child is a person,

Simplified, if/then sentence structure--limiting

there can be no exceptions for abortion.

No exception=oversimplified, black and white, no middle ground

No mention of the woman

Interesting that “mothers life” is not written by them as possessive, as if the life of the woman does not belong to the woman