

We're All Harry Blackmun Now — The Lessons of Mississippi

Does a baby have to look like a baby to be recognized as a person?

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WHEN VOTERS IN MISSISSIPPI VOTED DOWN THE HUMAN personhood amendment last week, they sent a clear and undeniable message — the pro-life movement is not as pro-life as it thinks it is. The truth is that, even in what may be the most pro-life state in the union, the most basic moral logic of the pro-life movement is not fully embraced or understood.

The voters spoke loudly. Statewide, 58 percent of voters cast ballots against the amendment. This came after polls had indicated that the amendment, once thought almost certain to pass, was fast losing support among Mississippians in the last days of the campaign.

The idea behind the personhood amendments is clear. Proponents frame the constitutional amendments as a moral statement, as a direct challenge to *Roe v. Wade*, and as a means of prompting legislation that will defend unborn life. Similar efforts failed twice in Colorado in recent years, but Mississippi looked like a sure thing. The state is already, as one leading pastor there told me, “the safest place in America to be an unborn child.” The state adopted pro-life legislation in the wake of *Roe v. Wade*, and there is only one abortion clinic in the state. The candidates for governor nominated by both major parties both supported the amendment.

After that, it got more complicated. The Roman Catholic Church in Mississippi took the position that its members were not bound to vote for the amendment. Within the pro-life movement, there was a division over the personhood amendment. Some believed the amendment to be the best way of building support for the overthrow of *Roe v. Wade*. Others believed that an incrementalist approach is wiser, deferring any direct assault on *Roe*.



Make no mistake, the human personhood amendment is not an incrementalist approach — it is a head-on assault against the logic of *Roe v. Wade* and the denial of human dignity at every stage of human development.

The trimester approach to pregnancy central to the *Roe v. Wade* decision was arbitrarily chosen by Associate Justice Harry Blackmun as he wrote the majority opinion for the U. S. Supreme Court. *Roe*, handed down in 1973, effectively declares an unborn child in the first three months of a woman's pregnancy to be of no moral or legal consequence. Within the second trimester, there is the recognition of potential personhood. Within the last trimester, the state may intervene with restrictions on abortion, but with clear allowances for stated reasons of the woman's health — which can include mental health.

In truth, the fetus is in danger all the way through the pregnancy. The personhood amendment is a frontal assault on this logic, and it contains the central moral claim of the pro-life movement — that personhood begins with conception.

Two issues arise at this point. First, the medical community, along with abortion rights supporters, has redefined “conception” from meaning the moment the egg is fertilized to instead meaning the successful implantation of the fertilized egg in the uterine wall. The personhood amendment hits this redefinition head-on. The moral status of the fertilized egg is the same, no matter where the egg is located. Any redefinition of conception to a point after the moment of fertilization leaves the zygote without any legal protection.

Second, the bare truth is that any effort to identify a moment along the line of development from fertilization to live birth when personhood is understood to be achieved is morally arbitrary and disastrous. Does a baby have to look like a baby to be recognized as a person? What developmental characteristics must it achieve?

Unless the unborn child is recognized as a person at every point in its development, we are just negotiating our own arbitrary definition of human personhood and human life. The pro-life movement rightly recognized Harry Blackmun's trimester approach to be deadly to the unborn and disastrous to the cause of human dignity. But the defeat of the personhood amendment in Mississippi indicates that voters there just operate out of a more conservative version of Blackmun's logic. Given the opportunity to declare the human personhood of every individual from the moment of fertilization onward, voters overwhelmingly said “No.”

Now, there can be no doubt that some voters were confused and others were frightened of the amendment. Planned Parenthood and other abortion rights organizations flooded the airwaves and phone lines with dire warnings that the amendment would mean the criminalization of doctors dealing with ectopic pregnancies, the end of birth control, and the prosecution of women experiencing miscarriages. As one prominent Mississippian commented, “We were carpet-bombed.”

The confusion and scare tactics were real enough, but we dare not miss the central truth of this defeat. Voters in what is believed to be the most pro-life state in the union overwhelmingly voted down a statement that declared personhood for every human being from the moment of fertilization onward. The horrifying reality is this — the scare tactics used by abortion rights activists included some truths that even pro-lifers evidently do not embrace. While it is not true that doctors would be prosecuted for saving the life of the mother in the case of something like an ectopic pregnancy, it is true that a consistent pro-life position would mean the end of stockpiling and eventually destroying human embryos in IVF clinics. While this would not criminalize or restrict non-abortifacient contraceptives, it would outlaw birth control that does not prevent the fertilization of the egg.

In other words, the amendment straightforwardly stated the central logic of the pro-life movement — and even those who considered themselves pro-life balked, blinked, and ran for cover.

Evidently, the increase in pro-life sentiment that resulted from the miracle of the ultrasound image doesn't apply when the image is that of a fertilized egg or a developing embryo. For many who consider themselves pro-life, the moral impulse is, apparently, to save “babies,” and not every unborn child at every stage of development.

Well, this means that a vast number of pro-lifers are not really as pro-life as they think, or that we had hoped. The political calculations about the wisdom of such amendment efforts aside, the undeniable fact is that the voters turned the amendment down, soundly. Furthermore, it was not, in the main, because they misunderstood its meaning. They seem to have understood it all too well.

After taking the United States off the gold standard, President Richard M. Nixon explained his reversal of policy by citing the authority of economist John Maynard Keynes. “I am now a Keynesian in economics,” he said. Economist Milton Friedman had lamented the victory of Keynesian economics by commenting, acidly, ‘We’re all Keynesians now.’”

The bitter lesson of Mississippi's defeat of the human personhood amendment is this: When it comes to moral reasoning concerning the unborn child, far too many just adopt Harry Blackmun's moral framework and want to tweak it. Many in the pro-life movement want to shift his lines of moral judgment, but not to repudiate his deadly logic.

We may think we are pro-life, but if we do not affirm the personhood of every human being at every point of development, from fertilization onward, we are not really so pro-life as we think. Or, in other words, we're all Harry Blackmun now.

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