

# FETAL ‘PERSONHOOD’ ON THE GLOBAL STAGE: THE UNITED STATES AS OUTLIER

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Legal fetal ‘personhood’ is the idea that every single stage of fetal life, including the collection of cells formed at conception, is entitled to all the same legal rights as already born people. This concept makes no legal sense, any more than saying that people that have died are entitled to all the same legal rights as people that are living. That is why international instruments, and the laws of all nations, are primarily written to lay out the rights and responsibilities of people between birth and death. But, in an effort to both outlaw abortion health care and control the reproductive lives of women, proponents of legal fetal ‘personhood’ have used the overthrow of the national right to abortion in the United States to embark on a renewed push to establish the ‘personhood’ of fetuses, embryos, and even fertilized eggs.<sup>1</sup> These efforts are meeting with some success in a number of U.S. states, achievements that stand in stark contrast to developments in a majority of nations around the world. Internationally, courts and lawmakers are generally moving in the opposite direction--recognizing that while an embryo or fetus has value, that value is not identical to having the legal rights of the already born.<sup>2</sup> This trend can be seen in several areas related to reproductive justice, and below we provide two examples of areas in which the United States is moving closer to legal fetal ‘personhood’ while other nations and international bodies are recognizing that the value of a pregnancy is not equivalent to legal personhood.<sup>3</sup>

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<sup>1</sup> See Joshua J. Craddock, *Personhood After Dobbs*, 74 CATH. U. L. REV. 536 (2025); see also *Dobbs v. Jackson Women’s Health Organization*, 597 U.S. 215 (2022) (ending the constitutional right to abortion health care established in 1973 and giving the authority to regulate abortion health care to individual states).

<sup>2</sup> While a fetus certainly has relational, moral, religious, community and personal values, that does not equate to the full legal rights of personhood, as explained herein; see also Wendy Heipt and Julia Littell, *Fetal Personhood Creep*, 28 U. IOWA J. GENDER, RACE & JUST. 283 (2025).

<sup>3</sup> These examples come out of the authors’ yearlong study of global trends in legal fetal personhood; a more detailed and comprehensive paper on the project is forthcoming.

## I. LEGAL FETAL ‘PERSONHOOD’ AND ASSISTED REPRODUCTIVE TECHNOLOGY: THE U.S. AND COSTA RICA

First, as noted above, under a legal fetal ‘personhood’ scheme, as soon as fertilization occurs, there is a “child” entitled to the full rights of any actually born individual. In a legal fetal ‘personhood’ regime, this is true regardless of where the fertilization takes place, which means legal fetal ‘personhood’ is a threat to Assisted Reproductive Technologies (“ART”) overall, and to In Vitro Fertilization (“IVF”) in particular.

IVF is a process that has helped individuals become parents for over four decades and currently accounts for approximately 2% of births in the U.S.<sup>4</sup> The procedure can involve the creation and implantation of multiple embryos, to increase the chances that at least one will develop into a pregnancy.<sup>5</sup> If a patient has a successful pregnancy, remaining embryos that meet storage criteria can be frozen for future use in one of two ways, at different developmental points.<sup>6</sup> While these frozen test tubes certainly have value for the patients who created them, until 2024, most people in the United States did not realize that under a legal fetal ‘personhood’ regime, these frozen test tube embryos could be considered full rights-bearing ‘children’ in the eyes of the law.

That misbelief was shattered in the now infamous case of *LePage v. Center for Reproductive Medicine*.<sup>7</sup> In this case, after successfully undergoing IVF treatments, three couples had their remaining embryos stored at an Alabama medical center. After an intruder dropped and destroyed the embryos, the couples, claiming that their embryos were minor children, sued under Alabama's Wrongful Death of a Minor Act. In upholding their claim, the state supreme court found that legal fetal personhood required recognizing that frozen embryos at any stage of development are “extrauterine children” and must be treated as actual, living children.<sup>8</sup>

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<sup>4</sup> Madeline Holcombe, *About 2% of Babies Born in the US are from IVF, Here's What You Need to Know About it*, CNN (Feb. 21, 2024, 1:01 PM), <https://edition.cnn.com/2024/02/21/health/ivf-egg-freezing-explainer-wellness/index.html> [<https://perma.cc/CA9Z-MSAU>].

<sup>5</sup> When too many embryos develop, medical staff can perform a multifetal pregnancy reduction (“MFPR” or “selective reduction”) to reduce the number of developing fetuses. Zhu Yimin, *et al.*, *Fetal Reduction Could Improve but Not Completely Reverse the Pregnancy Outcomes of Multiple Pregnancies: Experience from a Single Center*, 13 FRONTIERS IN ENDOCRINOLOGY (June 23, 2022), <https://www.frontiersin.org/journals/endocrinology/articles/10.3389/fendo.2022.851167/full> [<https://perma.cc/RT44-FQTS>]. Regardless of the terminology, an MFPR is an abortion.

<sup>6</sup> SOC’Y FOR ASSISTED REPROD. TECHN., *ART: Step-by-Step Guide*, <https://www.sart.org/patients/a-patients-guide-to-assisted-reproductive-technology/general-information/art-step-by-step-guide/> [<https://perma.cc/YA2R-28S3>] (last visited Mar. 28, 2025).

<sup>7</sup> *LePage v. Ctr. for Reprod. Med., P.C.*, 408 So. 3d 678 (Ala. 2024).

<sup>8</sup> A deeper discussion of how the *LePage* case fits into the overall strategy of ‘fetal personhood creep,’ whereby U.S. proponents incrementally attempt to establish legal fetal personhood, can be found here: Heipt and Littell, *supra* note 3; see also Rolanda Donelson and Rebecca Reingold, *Creeping Personhood: Analyzing the Impact of Alabama Supreme Court’s Decision on IVF*, O’NEILL INSTITUTE (Mar. 19, 2024) <https://oneill.law.georgetown.edu/creeping-personhood-analyzing-the-impact-of-alabama-supreme-courts-decision-onivf/#:~:text=The%20movement's%20primary%20goal%20is,under%20state%20and%20federal%20laws> [<https://perma.cc/XSB2-Z55F>].

While this seems extreme, Alabama is not the only U.S. state that treats IVF-created embryos as people.<sup>9</sup> Nor has the U.S. Congress been able to pass legislation protecting ART at the federal level in the wake of the *LePage* case.<sup>10</sup> And numerous states have since introduced legislation that would require the same recognition—that frozen embryos are actually “children.”<sup>11</sup> Taken together, these developments reflect how legal fetal ‘personhood’ proponents in the U.S. are increasingly finding success in the IVF context.

In contrast, when the issue of embryonic personhood was presented in a case before the Inter-American Court of Human Rights (“IACtHR”), it was rejected. The case began in 1995, when legal fetal ‘personhood’ advocates challenged a Costa Rican law that authorized and regulated IVF, arguing that the destruction of embryos violated the Costa Rican Constitution’s right to life.<sup>12</sup> The Supreme Court’s Constitutional Chamber ruled that the IVF law was unconstitutional, finding that an embryo was a person from the time of conception—effectively ending IVF in the country.<sup>13</sup> After this decision came out, nine infertile couples initiated a complaint

<sup>9</sup> The state of Louisiana has a statute holding that viable IVF embryos are “judicial persons” that cannot be destroyed. LA. R.S. 9:129. Because of this, most of the state’s fertility clinics require out-of-state embryo storage, even though this increases the cost of treatment. In 2024, legislators tried to go further, introducing a bill that would have, *inter alia*, blocked out-of-state embryo transfers if they would be destroyed. H.B. 833, La. State Legis., 2024 Reg. Sess. (La. 2024).

<sup>10</sup> After publication of the *LePage* decision, several federal lawmakers introduced the Access to Family Building Act, in order to, *inter alia*, establish a federal right to IVF. This effort, like the Right to Build Families Act effort that preceded it, did not pass. Access to Family Building Act, S. 3612, 118<sup>th</sup> Congress (2024). In an Executive Order (“EO”) issued on February 18, 2025, President Trump requested that the Assistant to the President for Domestic Policy submit policy recommendations aimed at reducing IVF costs. *Expanding Access to In Vitro Fertilization*, Exec. Order No. 14,216 (Feb. 18, 2025). EO 14,216 does not change the current cost or availability of IVF in the United States, nor does it address the tension between expanding IVF access and other executive orders seeking to limit the rights of LGBTQ+ individuals, nor does it change the Republican Party platform, which supports legal fetal personhood even though that would undermine IVF, or Project 2025, which overtly supports legal fetal personhood. *2024 Republican Party Platform*, Make America Great Again! 15 (2024), <https://www.2024gopplatform.com/assets/files/RNC2024-Platform.pdf> (stating that under the 14th Amendment, no person can be denied life or liberty without due process, and that states can pass laws protecting those rights); MANDATE FOR LEADERSHIP: THE CONSERVATIVE PROMISE 450 (Paul Dans & Steven Groves eds., 2023), [https://static.heritage.org/project2025/2025\\_MandateForLeadership\\_FULL.pdf?xomxrjz;\\_gcl\\_auz;NTY2ODMwNjAxLjE3MzU4NTc5NzU.z;\\_gaz;MTUwNzQ2MjQ0Ny4xNzMIODU3OTc1z;\\_ga\\_W14BT6YQ87z;MTczNTg1Nzk3NS4xLjAuMTczNTg1Nzk3NS42MC4wLjA](https://static.heritage.org/project2025/2025_MandateForLeadership_FULL.pdf?xomxrjz;_gcl_auz;NTY2ODMwNjAxLjE3MzU4NTc5NzU.z;_gaz;MTUwNzQ2MjQ0Ny4xNzMIODU3OTc1z;_ga_W14BT6YQ87z;MTczNTg1Nzk3NS4xLjAuMTczNTg1Nzk3NS42MC4wLjA) [<https://perma.cc/6LMD-57UQ>] (“From the moment of conception, every human being possess inherent dignity and worth, and our humanity does not depend on our age, stage of development, race, or abilities”).

<sup>11</sup> Two examples of legislation that have been introduced since the *LePage* decision that, if passed, would likely find embryos at all stages to be full legal rights holders include H.B. 1174, 94th Gen. Assemb., Reg. Sess. (Ar. 2023)) (would have redefined “person” as including “offspring of human beings from fertilization until birth”) and H.B. 2575, 91st Gen. Assemb., Reg. Sess. (Iowa 2025) (would hold anyone causing any death of an “unborn person” criminally liable).

<sup>12</sup> Sentencia No. 02306 [Sala Constitucional de la Corte Suprema de Justicia], 15 de Marzo de 2000 (Costa Rica), <https://vlex.co.cr/vid/498304022> [<https://perma.cc/4VZJ-BM5B>]. See also CONSTITUCIÓN POLÍTICA DE LA REPÚBLICA DE COSTA RICA [CONSTITUTION] Nov. 7, 1949, art. 21 (Costa Rica).

<sup>13</sup> Sala Constitucional de la Corte Suprema de Justicia de Costa Rica [CSJCR] [Constitutional Chamber of the Supreme Court of Costa Rica], “Sentencia 2000- 02306,” March 3, 1995 (Costa Rica).

against the Costa Rican government in the Inter-American human rights system. In 2012, in *Artavia Murillo and others (In Vitro Fertilization) v. Costa Rica*, the IACtHR held that Costa Rica's protection of embryos failed to consider or balance conflicting rights and led to an arbitrary and excessive interference in prospective parents' rights to privacy and family life.<sup>14</sup>

The principal issue before the court in *Artavia* was whether the Costa Rican constitution's right to life extended to embryos and if they were therefore protected under the American Convention on Human Rights ("Convention"). In analyzing the Convention's guarantee of the right to life, the court found that Convention's language did not mean that embryos and fetuses had legal personhood status.<sup>15</sup> The IACtHR specifically held that the question of when life begins can be evaluated from biological, medical, ethical, moral, philosophical, and religious perspectives and that it is not a court's role to determine which theory should prevail and therefore impose one set of beliefs.<sup>16</sup> Examining numerous human rights instruments, the court in *Artavia* concluded that none intended to give embryos the same legal rights as born individuals.<sup>17</sup> The IACtHR also reviewed various cases involving IVF that had come before the European system of human rights and determined that "regulatory trends in international law do not lead to the conclusion that the embryo should be treated in the same way as a person, or that it has a right to life."<sup>18</sup> Other individual nations have also reached this same conclusion, that 'extra uterine' embryos are not equivalent to post-birth human beings.<sup>19</sup>

In sum, when faced with the question of whether IVF created embryos are entitled to the same legal protections as already born children, the Alabama court in the U.S. found that they were, and the IACtHR found that they were not.

## II. LEGAL FETAL 'PERSONHOOD' AND PRE-BIRTH CONSTITUTIONAL RIGHTS: THE U.S. AND MEXICO

A similar variance can be found by comparing the way states in the U.S. and in other countries have approached the issue of ascribing sub-national constitutional rights to embryos and fetuses. Broadly speaking, in both Mexico and in the United States, states can draft their own constitutions as long as they do not conflict with

<sup>14</sup> *Artavia Murillo and others (In Vitro Fertilization) v. Costa Rica*, Preliminary Exceptions, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H. R. (ser. C). No. 257, ¶¶ 145, 285 (Nov. 28, 2012).

<sup>15</sup> *Id.* at ¶ 222.

<sup>16</sup> *Id.* at ¶ 185 "Consideraciones Finales."

<sup>17</sup> *Id.* at ¶¶ 224-253 (examining the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Convention on the Rights of the Child, as well as the treaty monitoring bodies).

<sup>18</sup> *Id.* at ¶ 253.

<sup>19</sup> For example, in examining the issue of extrauterine embryos, Brazil's Supreme Court has held that their constitution "does not turn every stage of human life into an autonomous legal entity but rather protects the life that already belongs to a concrete person." Supremo Tribunal Federal [S.T.F.] [Federal Supreme Court], May 29, 2008, Ação direta de inconstitucionalidade 3.510/DF [ADPF 3.510/DF] [Direct action of unconstitutionality 3.510/DF], Relator: Ayres Britto, Supremo Tribunal Federal Jurisprudência, 136 (Braz.).

their federal counterparts.<sup>20</sup> In the United States in the post-*Dobbs* era, this has resulted in U.S. states amending their state constitutions to hold that embryos and fetuses are entitled to the same legal rights as people are after birth. Comparing these states with the contrasting experience in Mexico provides another example of how U.S. entities are diverging from their international counterparts.

The *LePage* decision referenced above based its conclusion, in part, on a constitutional amendment to the Alabama state constitution.<sup>21</sup> The state’s voters passed this amendment, Ballot Amendment 2, in 2018, to “support ... the rights of unborn children.”<sup>22</sup> In 2022, after issuance of the *Dobbs* decision, the amendment added Article I, § 36.06(b), to the state constitution.<sup>23</sup> Although proponents of the measure had said that the amendment was more an assertion of values than a change in policy, the truth is that state constitutions are both more far-reaching than state laws, and more permanent.<sup>24</sup> This means that Alabama’s constitutional acknowledgement of the legal “rights of the unborn” not only dictates interpretations of state law and policy, but has also acts as the foundation for additional legislation increasing restrictions on all aspects of reproductive care.<sup>25</sup> In Alabama’s case, the addition of Article I, § 36.06 to the state constitution was the impetus for the introduction of HB 314 in the 2019 legislative session.<sup>26</sup> This bill, entitled the Human Life Protection Act, made it a class A felony for a medical doctor to perform almost any abortion in the state.<sup>27</sup> Although lawsuits initially delayed implementation of the law, after the issuance of the *Dobbs* opinion the bill was codified into state law.<sup>28</sup>

Nor is Alabama the only U.S. state with constitutional protections for the unborn.<sup>29</sup> Arkansas also has a state constitutional amendment holding that, “[t]he

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<sup>20</sup> U.S. Const. art. VI, cl. 2 (“This Constitution, and the Laws of the United States ... shall be the Supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding”); Constitución Política de los Estados Unidos Mexicanos, Feb. 5, 1917,, arts. 40, 41 (Mex.).

<sup>21</sup> *LePage*, 408 So.3d at 694-697.

<sup>22</sup> H.B. 314, 2019 Reg. Sess. (Ala. 2019).

<sup>23</sup> This section, entitled *Sanctity of Unborn Life*, reads, “(a) This state acknowledges, declares, and affirms that it is the public policy of this state to recognize and support the sanctity of unborn life and the rights of unborn children, including the right to life; (b) This state further acknowledges, declares, and affirms that it is the public policy of this state to ensure the protection of the rights of the unborn child in all manners and measures lawful and appropriate; (c) Nothing in this constitution secures or protects a right to abortion or requires the funding of an abortion.” Ala. Const. art. I, § 36.06 (amended 2022).

<sup>24</sup> Robin Marty, *Alabama Deserves a Revote on ‘Life’*, ALABAMA REFLECTOR (Mar. 7, 2024), <https://alabamareflector.com/2024/03/07/alabama-deserves-a-revote-on-life/> [<https://perma.cc/5WPN-NHN8>].

<sup>25</sup> Lisa Needham, *A Brief Guide to Fetal Personhood, the Next Frontier in Anti-Choice Politics*, BALLS & STRIKES (May 25, 2022), <https://ballsandstrikes.org/law-politics/fetal-personhood-explainer/> [<https://perma.cc/U3HQ-GDG5>].

<sup>26</sup> H.B. 314, *supra* note 23 (noting the recently passed constitutional amendment).

<sup>27</sup> *Id.*

<sup>28</sup> *Robinson v. Marshall*, Civil Action No. 2:19cv365-MHT (M.D. Ala. June 24, 2002) (lifting the injunction of the Human Life Protection Act). The legislation is now codified at ALA. CODE § 26-23H-4 (2024).

<sup>29</sup> Note that even without specific constitutional level provisions purporting to extend full legal rights to the unborn, multiple U.S. states have or have attempted to interpret their laws generally as if there

policy of Arkansas is to protect the life of every unborn child from conception until birth, to the extent permitted by the Federal Constitution.”<sup>30</sup> In addition, numerous additional states have sought to introduce constitutional amendments on legal fetal ‘personhood.’<sup>31</sup>

Mexico provides a contrasting example.<sup>32</sup> In 2007, one Mexican state chose to decriminalize abortion health care through week twelve of pregnancy.<sup>33</sup> In response, anti-abortion promoters in other states began trying to pass legislation to block similar attempts and by 2021, 21 of Mexico’s 32 states had amended their constitutions to protect the “right to life from conception.”<sup>34</sup>

The issue came before the country’s Supreme Court in 2021 in a case brought by members of the Sinaloa Congress and the National Commission of Human Rights.<sup>35</sup> The challenge was over a 2018 amendment to the Sinaloa state constitution, protecting the ‘right to life’ from conception.<sup>36</sup> As part of their

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was such a state level recognition. As just one example, Arizona SB1457, passed in 2021, required that all Arizona statutes be interpreted to give fetuses, embryos, and fertilized eggs the same rights as birthed and living people. *See* ARIZ. REV. STAT. ANN. § 1-219 (2021). This law was, pre-*Dobbs*, enjoined by an Arizona court. *Isaacson v. Brnovich*, 610 F. Supp. 3d 1243, 1257 (D. Ariz. 2022); *see also* Heipt and Littell, *supra* note 3.

<sup>30</sup> ARK. CONST. OF 1868, amend. 68, § 2 (1873). Note that a later court case, decided before the *Dobbs* decision, determined that section 68 was not self-executing. *Knowlton v. Ward*, 889 S.W.2d 721, 726 (Ark. 1994).

<sup>31</sup> This includes states where proposals made it to the ballot, such as North Dakota (N.D. Measure 1, Right to Life of Humans at Any Stage of Development Amendment, 2014), Mississippi (Miss. Initiative 26, Definition of Person Amendment, 2011), and Colorado (Colo. Amendment 62, Definition of Person Amendment, 2010), and states where they did not, including Florida (2012), Nevada (2010) and South Carolina (2016).

<sup>32</sup> In addition to the fetal personhood example herein, we also note that, in general, Mexico is increasing access to abortion health care and reproductive rights, even as the United States overall is moving in the opposite direction. Carrie N. Baker, *Mexican Supreme Court Decriminalizes Abortion Nationwide, Requires Federal Health Services to Offer Abortion*, MS. MAGAZINE (Sept. 1, 2023), <https://msmagazine.com/2023/09/11/mexico-supreme-court-abortion/> [https://perma.cc/Q4V2-35EC].

<sup>33</sup> Decreto por el que se reforma el Código Penal para el Distrito Federal y se adiciona la Ley de Salud para el Distrito Federal, Diario Oficial de la Federación [DOF], 26 de abril de 2007 (Méx.), <https://mexico.justia.com/estatales/ciudad-de-mexico/decretos/decreto-por-el-que-se-reforma-el-codigo-penal-del-distrito-federal-y-se-adiciona-la-ley-de-salud-para-el-distrito-federal/> [https://perma.cc/LJ6X-7JT3].

<sup>34</sup> The following states amended their constitutions to protect life from conception: Baja California and Morelos (2008); Colima, Sonora, Quintana Roo, Guanajuato, Puebla, Nayarit, Jalisco, Yucatán, San Luis Potosí, and Querétaro (2009); Chiapas and Tamaulipas (2010); Durango (2013); Oaxaca (2015); Veracruz (2016), Sinaloa (2018); Nuevo León (2019); and Aguascalientes and Colima (2021). Caroline Beer, *Abortion Policy in Mexico: A Changing Role for the Supreme Court*, XX SW. J. INT’L L. 461 (2024), <https://www.swlaw.edu/sites/default/files/2025-01/6%20-%20Beer.pdf>.

<sup>35</sup> *Mexico: Landmark Reproductive Rights Rulings*, HUMAN RIGHTS WATCH (Sept. 14, 2021), <https://www.hrw.org/news/2021/09/14/mexico-landmark-reproductive-rights-rulings> [https://perma.cc/M6ET-WLUC]. Note that the issue had first come before the court several times in 2011, in those cases they fell one vote short of ruling the protection unconstitutional. *Acción de Inconstitucionalidad 11/2009* [AI 11/2009], Pleno de la Suprema Corte de Justicia de la Nación [SCJN], Septiembre de 2011 (Mex.); *Acción de Inconstitucionalidad 62/2009* [AI 62/2009], Pleno de la Suprema Corte de Justicia de la Nación [SCJN], Septiembre de 2011 (Mex.).

<sup>36</sup> The amendment read, “Everyone has a right to have their life respected. The state protects the right to life from the moment an individual is conceived, enters under the protection of the law and is considered as born for all legal intents and purposes, until their natural death.” Decreto Número 861

challenge, the petitioners noted that, in the *Artavia* case, the IACtHR had already found that legal rights did not attach before birth.<sup>37</sup>

The Supreme Court of Mexico ruled that the state of Sinaloa’s decision to extend its constitutional protection of the right to life to embryos and fetuses in 2018 was unconstitutional.<sup>38</sup> In its decision, the Court stressed that there was no constitutional or international obligation to protect life from conception.<sup>39</sup> Because people become rights-holders once they are born, “[t]he right to life is intentionally associated with the born person and not with the product of human conception.”<sup>40</sup> The Court also stressed that it is impossible for “courts and legislatures to normatively and legally determine the beginning of human life—a dilemma for which there is no scientific, moral, or religious consensus.”<sup>41</sup> Accordingly, the Court cautioned that interpreting the right to life to confer full human status on fertilized eggs would impose a specific set of beliefs on others who do not share them.<sup>42</sup> Additionally, such a decision would impose excessive burdens on women and pregnant individuals, restricting their rights to liberty, dignity, privacy, personal development, and reproductive autonomy.<sup>43</sup> The Court’s decision has influenced other state constitutions in Mexico, and further embedded the reality that legal fetal ‘personhood’ is not a constitutionally sound principle in the country.<sup>44</sup>

### III. CONCLUSION

Although space constraints limit us to two examples, there are numerous other areas in which legal fetal ‘personhood’ has been accepted in America and been

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por el que se reforma el artículo 4 Bis A. Estado de Sinaloa. Órgano Oficial del gobierno de Sinaloa, 26 de octubre de 2018 (Méx.), <https://legislacion.scjn.gob.mx/sccef/paginas/wfDefault.aspx> [<https://perma.cc/V9ED-2Z9L>]. Constitución Política del Estado de Sinaloa [CPES], Periódico Oficial de Sinaloa, 25 de agosto de 1918, última reforma PO 26 de octubre de 2018 (Méx.), <https://legislacion.scjn.gob.mx/sccef/paginas/wfDefault.aspx> [<https://perma.cc/V9ED-2Z9L>].

<sup>37</sup> Acción de Inconstitucionalidad 106/2018 y su acumulada 107/2018 [AI 106/208 y 107/2018], Pleno de la Suprema Corte de Justicia de la Nación [SCJN], Septiembre de 2021, página 2 (Méx.).

<sup>38</sup> Acción de Inconstitucionalidad 106/2018 y su acumulada 107/2018 [AI 106/208 y 107/2018], Pleno de la Suprema Corte de Justicia de la Nación [SCJN], Septiembre de 2021 ¶¶ 35, 104 (Méx.).

<sup>39</sup> *Id.* at ¶ 31.

<sup>40</sup> The embryo or fetus “falls outside the notion of a person as a holder of human rights.” *Id.* at ¶ 3(i).

<sup>41</sup> *Id.* at ¶ 34.

<sup>42</sup> *Id.* at ¶ 31.

<sup>43</sup> *Id.* at ¶¶ 42-58. Note that Sinaloa amended its constitution to comply with the Court’s ruling on March 9, 2022. Congreso del Estado de Sinaloa, *Aprueba Congreso reforma constitucional en concordancia con sentencia de la SCJN*, CONGRESO DE SINALOA (2022), <https://www.congresosinaloa.gob.mx/comunicados/aprueba-congreso-reforma-constitucional-en-concordancia-con-sentencia-de-la-scjn/> [<https://perma.cc/9HZH-WRAP>].

<sup>44</sup> For example, in three other cases the Supreme Court ruled that similar provisions in the constitutions of Nuevo León, Veracruz, and Aguascalientes were also unconstitutional. Acción de Inconstitucionalidad 41/2019 y su acumulada 42/2019 [AI 41/2019 y 42/2019], Pleno de la Suprema Corte de Justicia de la Nación [SCJN], Marzo de 2019 (Méx.); Acción de Inconstitucionalidad 85/2016 [AI 85/2016], Pleno de la Suprema Corte de Justicia de la Nación [SCJN], Mayo de 2022 (Méx.); Acción de Inconstitucionalidad 72/2021 y su acumulada 74/2021 [AI 72/2021 y 74/2021], Pleno de la Suprema Corte de Justicia de la Nación [SCJN], Octubre de 2022 (Méx.).

rejected elsewhere.<sup>45</sup> All told, it is clear that the United States is incrementally moving towards legal fetal personhood, in opposition to the trend in other parts of the world.<sup>46</sup> Such movement does not bode well for the autonomy of pregnant people of reproductive age in the United States.

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<sup>45</sup> These areas include abortion health care laws, pregnancy criminalization, contraception, stem cell research, and other forms of assisted reproductive technologies.

<sup>46</sup> We note that while the U.S. Congress has tried, and failed, to introduce legal fetal personhood numerous times, the current administration has already begun acting as if legal fetal personhood were a legal U.S. reality. As an example, in a recent EO, President Trump used language defining “female” and “male” as life that begins “at conception.” *Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*, Exec. Order No. 14168, 90 Fed. Reg. 8615 (Jan. 20, 2025).