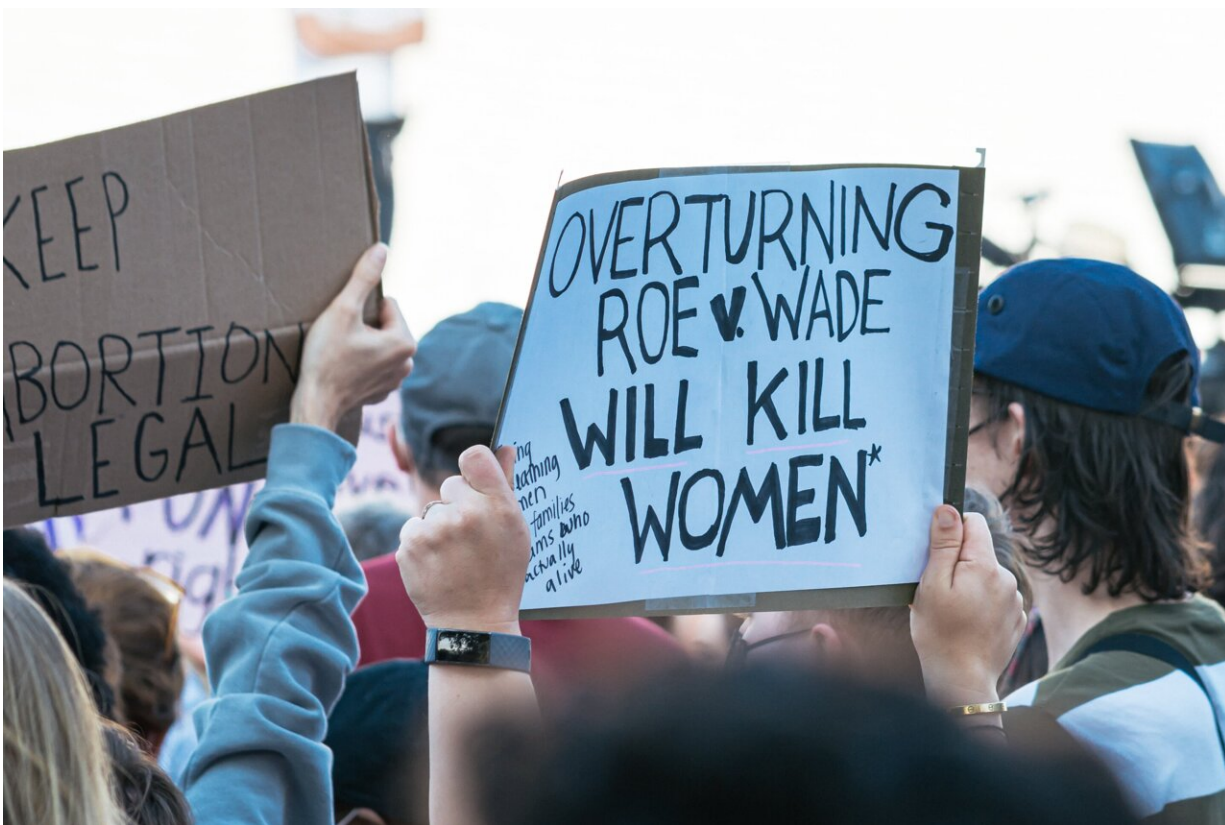


# What is 'personhood?' The ethics question that needs a closer look in abortion debates

May 13 2022, by Nancy S. Jecker

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Controversy over abortion reached a fever pitch on May 2, 2022, when the leaked [draft of a U.S. Supreme Court majority opinion](#) was published by Politico. If the draft's key points are reflected in the final

ruling, this would strike down [Roe v. Wade](#), a landmark decision that nearly 50 years ago established the right to choose an abortion.

Current constitutional law grants a right to have an abortion until a fetus [becomes viable](#)—in other words, until there is a reasonable probability it could survive outside the womb with care. Today, this typically occurs between the 22nd and 24th weeks of pregnancy.

The ruling in Roe v. Wade was grounded on the idea that the U.S. Constitution [protects privacy](#), stemming from the [14th Amendment](#). However, the draft majority opinion, written by Justice Samuel Alito, argues Roe v. Wade should be overturned because the Constitution makes no mention of abortion.

While a final ruling is not expected before June 2022, the decision will not put to rest controversy over abortion. Why does the legalization of abortion continue to be hotly contested, nearly a half century after Roe v. Wade? This question is of great interest to me, [as a philosopher and bioethicist](#), since I study philosophical problems that lie just beneath the surface of contemporary controversies like abortion.

## **Defining personhood**

One underlying ethical concern is, "What is a person?" How people answer this question shapes how they think about a developing human being. When philosophers talk about "personhood," they are referring to something or someone having [exceptionally high moral status](#), often described as having a right to life, an inherent dignity, or mattering for one's own sake. Non-persons may have lesser rights or value, but lack the full moral value associated with persons.

To be a person means having strong moral claims against others. For instance, persons have a claim to be treated fairly and a claim not to be

interfered with. A healthy adult human being is often considered the clearest example of a person. Yet, most philosophers [distinguish being a person from being human](#), pointing out that no one disputes the fetus's species, but many disagree about the fetus's personhood.

In current law, fetal viability is often used to mark the beginning of personhood. However, [viability varies](#) based on people's access to intensive medical care. It also changes as medicine and technology advance.

Some [state laws restricting abortion](#) identify the presence of a "fetal heartbeat" as morally significant and use this as a basis for personhood. However, many living things have beating hearts, and they are not all considered persons. And as physicians point out, though they may use the term "fetal heartbeat" in conversations with patients, the fetus [does not yet have a functioning heart](#) that generates sound during early development.

Defining the limits of personhood is especially dicey due to its far-reaching consequences. Personhood carries implications for how we treat [animals](#), [ecosystems](#) and [anencephalic infants, who are born with their cerebral cortex and large parts of their skull missing](#). It also shapes the rights of [people who will be born in the future](#), [people with disabilities](#) and [individuals in a persistent vegetative state](#). Debates over personhood have recently [extended to robots](#).

Personhood is also important for issues at the [end of life](#), such as disputes over [defining death](#). Physicians have disagreed with families over [whether to declare a patient dead](#) or continue to offer medical interventions. [Philosophers have debated](#) whether a person's death occurs as soon as "higher" brain activity ceases—activity associated with consciousness and cognition—or only after all brain activity ends.

## When personhood begins

In short, there are plenty of reasons to figure out what personhood requires. Doing so demands wrestling with at least three common opposing views.

The first holds that fetuses qualify as persons from the moment of conception. Supporters say that from conception on, the developing fetus has "[a future like ours](#)," and abortion takes that future away. A variation on this theme is that at conception, a fetus has the full genetic code and therefore the [potential to become a person](#), and this potential qualifies the fetus as a person.

A second view regards personhood as arising at some point after conception and prior to birth. Some people reason that a human being's moral status is not all-or-nothing, but, like human development, [a matter of degree](#). Others say that what matters is [consciousness and other cognitive capacities](#), thought to develop late in the second trimester.

Finally, a third view maintains that personhood begins at [birth or shortly thereafter](#), because this is when an infant first acquires a sense of themselves and an interest in their own continued existence. Another source of support for the third view is Enlightenment philosopher Immanuel Kant's claim [that what makes human beings morally special is their rationality](#) and capacity to be autonomous.

## Conflicts between persons

Which view about personhood is right? If a society can't agree about personhood, another strategy would be to imagine that one's opponent's view is right, and consider the implications.

Suppose, for example, that fetuses are persons. Since pregnant people are too, how should conflicts between them be settled? Suppose a pregnant person's life were in jeopardy: whose right to life prevails? Some hold that under these conditions, abortion is justified by appealing to self-defense, but others say killing in self-defense [is not justified](#) if the threat is "innocent," without intention of doing harm.

Even when a pregnant person's life is not in danger, some philosophers argue that a fetus's right to life would not automatically override a pregnant person's right to [live their life as they wish](#). In a famous article, [ethicist Judith Jarvis Thomson](#) used the hypothetical example of someone extremely ill, who could only be saved by actor Henry Fonda touching their brow. Must Fonda attend to them? She argued no: a right to life is not usually understood as a claim to whatever one needs to stay alive. Instead, it requires not having one's life unjustly ended.

When weighing rights, it is important to consider the toll exacted when people wishing to terminate a pregnancy are prevented from doing so. A [decade-long study](#) showed people in this situation suffered [adverse health effects](#); were less likely to have money for basic living expenses like food, housing and transportation; and were more likely to remain with violent partners. Since the risk of dying from childbirth is much greater than the risk of dying from legal abortion, a ban on abortion is projected to [increase maternal mortality](#).

The constitutional right to abortion will likely soon be settled. If the Supreme Court strikes down *Roe v. Wade*, this will raise yet more ethical questions—about fairness, for example, considering, that people living in poverty and members of [minority groups would be among those most affected](#), and that a majority of Americans [support abortion rights](#).

Only by shifting the conversation from politics and law to ethics will Americans start to reckon with what truly matters in [abortion](#) debates.

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