

# Exhibit C

**EXPERT REPORT OF REBECCA TODD PETERS, M. DIV., PH.D.**

1. I hold a Ph.D. in Christian social ethics and am an ordained minister of Word and Sacrament in the Presbyterian Church (U.S.A.).
2. I provide the following opinions as an expert in theology, ethics, and morality.

**Wyoming's Criminal Abortion Ban**

3. I understand that the Wyoming statute seeks to establish as law the religious belief that life begins at conception and to then use this belief as the foundation for criminalizing abortion in the state of Wyoming.
4. The logic of the argument to criminalize abortion in the Wyoming statute is to establish particular ontological and theological claims about the prenatel<sup>1</sup> that set the prenatel up to be recognized as a protected entity under the Wyoming constitution's affirmation of "equality for all" which holds that "in their inherent right to life, liberty and the pursuit of happiness, all members of the human race are equal." In doing so, the legislature seeks to codify sectarian Christian beliefs into law.
5. Furthermore, attempts to confer human and legal rights on a prenatel by labeling it an "unborn baby" obscures the developmental nature of gestation and distorts our ability to think critically about the moral status of the prenatel. The word "prenatel" refers to the developing entity during gestation, for as long as the prenatel resides inside the pregnant woman and is dependent on her body and her blood to exist. Prenates don't breathe, they

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<sup>1</sup> I have coined the term "prenatel" to refer to the developing entity as long as it resides inside the pregnant woman in response to the fact that current available language is either inadequate, morally loaded, or both. From the clinical and emotionally detached scientific terms (fertilized ovum, blastocyst, zygote, embryo, fetus) to the emotional and morally laden terms (baby, unborn child, mother, and even pregnant woman), our words are politically and emotionally charged. More importantly, they constrain our moral imagination and fail to represent the moral, physical, developmental, and social uniqueness of what happens over those nine months of a pregnancy. I have chosen this term based on the usage of the word "prenatal" to refer to the state of the pregnant woman as well as the common usage of the term "neonate" to refer to the infant after birth. Rebecca Todd Peters, "Listening to Women: Examining the Moral Agency of Women Who End Pregnancies," J. of Religious Ethics 49. 2:290-313.

don't eat, they represent the potential for life, but they are not-yet life. Gestation is actually a very helpful word because it forefronts the developmental nature of pregnancy.

6. Through the Criminal Abortion Ban, Wyoming proclaims that the single cell of a zygote must be recognized as a living human being and, by extension, that zygotes must be afforded the same moral standing, human rights, and legal rights as people. But whether a prelate is a person—or warrants some other special moral status—is a philosophical and religious question, one closely tied to religious teachings and beliefs.
7. To say that a fertilized egg is “human” or that it belongs to the “human species” is uncontested. Certainly, the fertilized egg in a woman is a human fertilized egg and not, say, a feline or avian fertilized egg. However, in proclaiming “an unborn baby” to be “a member of the species homo sapiens from conception” the Wyoming legislature seeks to move beyond the scientific classification of the developing cells in a human pregnancy and secure legal recognition of a contestable ontological understanding of prenatal life
8. The attempt to change the ontological status of the nascent, prenatal entity from a developing prelate (zygote, embryo, fetus) by adding the qualifier “unborn” to the term “baby” is a theological move. The very use of the qualifier “unborn” is evidence that the prelate is *not* a baby but a different entity. The purpose of this very statement in the statute is to create a new category of human being – the “unborn baby.” However, the addition of the qualifier, “unborn” to the category of “baby” is an oxymoron because the very definition of baby is “a newly born child.” Thus, by definition, babies only exist after they are born; before they are born, they are not babies but exist in what many religious communities identify as a “liminal status.” Liminality is a concept in the study of religion that represents transitional life phases often associated with life and death.<sup>2</sup>

Pregnancy and gestation are often recognized as liminal spaces, with the activity of birth marking the entrance of a child into the world.

9. This movement into life and adoption into the church community is marked within some Christian communities by the sacrament of baptism. Baptism is the process of recognizing the entrance of a person into the community of faith by Christians and is only offered after the birth of a baby. Baptism is not sanctioned for a prelate prior to birth or in the case of a stillbirth or a child that has died. This reservation of baptism for the living, and the practice of baptism as a sacrament that occurs after birth, marks a significant historical distinction within Christianity between the prelate and a baby.
10. The rhetorical shift from *Roe v Wade*'s "potential life" to language that has emerged in recent years of "unborn child" is a shift of profound significance. This shift is not merely semantic, it is ontological. This rhetorical shift is intended to change our understanding of what a fertilized egg or an embryo or a fetus *is* - to shift our public, collective understanding away from the science of developmental biology toward a sectarian Christian belief that a fertilized egg is ontologically the same as a newborn baby. While this belief has loose connections with some historic Christian arguments about ensoulment, the Wyoming framing that "life begins at conception" is a relatively recent theological innovation that reflects broader cultural concerns about traditional families, women's roles as mothers, and the uncritical assertion of the innocence of the prenatal condition as much as it does the theological belief that ending a pregnancy is an act of murder.

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<sup>2</sup> Rebecca Todd Peters, *Trust Women: A Progressive Christian Argument for Reproductive Justice*, Boston: Beacon Press, 2018, 153-159.

11. The idea that from the moment of fertilization, a zygote is, in every way, indistinguishable from a baby is a sectarian religious belief shared by Roman Catholics,<sup>3</sup> some evangelical Christians,<sup>4</sup> Greek Orthodox,<sup>5</sup> and Jehovah's Witnesses.<sup>6</sup> This minority religious view that the prelate is ontologically indistinguishable from a baby is not shared by all Christians or by people from different religious traditions. The inability or refusal of the expressly identified Christian legislators who sponsored and supported this law to recognize or identify the sectarian nature of their belief that life begins at conception does not make their belief any less sectarian. Rather, it highlights the way in which religious beliefs can function as totalizing worldviews for their practitioners. More importantly, the lack of explicit reference to God or religion or religious beliefs is not evidence that these are not religious beliefs. It is well documented by religious and secular historians that Roman Catholic and evangelical Protestant Christians have persistently fought for legal recognition of their belief that personhood begins at the moment of conception.<sup>7</sup>

12. Wyoming's Criminal Abortion Ban violates Wyoming residents' ability to make essential decisions about when and if to have children that reflect their personal religious beliefs and commitments. Even more egregiously, by forcing women to gestate and bear children

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<sup>3</sup> Joseph Ratzinger and Alberto Bovone, "Congregation for the Doctrine of the Faith: Instruction on Respect for Human Life in Its Origin and on the Dignity of Procreation: Replies to Certain Questions of the Day, Vatican City 1987," *The Linacre Quarterly* 54, no. 2 (May 1, 1987).

<sup>4</sup> David Closson, "Biblical Principles for Pro-Life Engagement: Personhood, Scripture, and Church History," Family Research Council, 2022.

<sup>5</sup> Greek Orthodox Archdiocese of America, "For the Life of the World: Towards a Social Ethos of the Orthodox Church," III, 15, 2020. <https://www.goarch.org/social-ethos?fbclid=IwAR2RSPrgYRhPfAgT9p2iIQkd9wqtOYJ74Gtjnpmyq9xYdxshwqr6U1FJFiY>

<sup>6</sup> "What Does the Bible Say About Abortion? Is Abortion a Sin?" Accessed July 12, 2023. <https://www.jw.org/en/bible-teachings/questions/abortion-in-the-bible/#footnotesource2>.

<sup>7</sup> Patricia Miller, *Good Catholics: The Battle over Abortion in the Catholic Church*, University of California Press, 2015; Daniel K. Williams, *Defenders of the Unborn: The Pro-life Movement Before Roe v. Wade*, NY: Oxford, 2016; Karissa Haugeberg, *Women against Abortion: Inside the Largest Moral Reform Movement of the Twentieth Century*, Urbana: University of Illinois, 2017; Jennifer L. Holland, *Tiny You: A Western History of the Anti-Abortion Movement*. Berkeley: University of California, 2020.

against their will, this law will violate the most basic sense of dignity, bodily autonomy, moral agency, and respect for human life that is shared among the world's religious traditions.

**The Category of “Religion” Spans a Number of Beliefs, Traditions, and Commitments**

13. The term “religion” as used in this document widely refers to broad beliefs, practices, and traditions associated with major world religions. Each major world religion is better understood as a category of traditions that reflect elements of shared history and similar beliefs. So, within Christianity there exists Orthodoxy, Roman Catholicism, a wide variety of Protestant denominations (Baptist, Episcopal, Lutheran, Methodist, Presbyterian, etc.), historic Peace churches (Mennonite, Quaker, Brethren, etc.) as well as independent, non-denominational churches (ranging from megachurches to storefront churches). Similarly, within Judaism there are Orthodox, Conservative, Reformed, Reconstructionist, etc. traditions and within Islam - the Nation of Islam, Sunni, Shi'a, Sufi, etc. Hinduism, Buddhism, and indigenous religious traditions are likewise equally diverse, containing many movements, sects, and diverse belief systems within their boundaries. This diversity within world religions reflects the plurality of human beliefs both within and between different religions and religious traditions.<sup>8</sup>

14. One might argue that because the Nicene Creed (325 CE) is the only authoritative ecumenical statement accepted by the Eastern Orthodox Church, the Oriental Orthodoxy, the Roman Catholic Church, the Church of the East (Syriac), the Anglican Communion, and most Protestant denominations<sup>9</sup> that it serves as a common theological anchor for

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<sup>8</sup> Harvard's Pluralism project is one well-known effort to document and educate broader publics about the diversity of religious belief and traditions within and between religions in the United States. The Pluralism Project, <https://pluralism.org/home>.

<sup>9</sup> Some Protestant denominations are non-creedal, relying only on the Bible as the only authoritative source.

Christianity. While this may be true, the Nicene Creed is a theological discussion of the nature of God, the trinity, Christology, pneumatology, ecclesiology and eschatology. There is no discussion of ethics, moral issues, or when life begins in the Nicene Creed.

15. The term “ethics” is generally used to refer to discussions about the study of human behavior in relation to moral issues, moral decision-making, and moral reasoning.<sup>10</sup> In a general sense, the term “moral” refers to aspects of human life that pertain to socially accepted ideas about what is “right” or “wrong” or “good” or “bad.”<sup>11</sup> Different religious traditions have varying beliefs about what is considered “right” or “wrong” and about how decisions about what is right and wrong (generally understood as “moral discernment”) take place.
16. Given that what is considered to be “moral” is largely socially constructed and influenced by a variety of sources, including faith sources (e.g. scripture, tradition, religious teaching) as well as other sources of wisdom or authority (e.g. reason, science, conscience, experience), legislating morality in a religiously plural context can be imprudent.<sup>12</sup> The sheer permeability of what is considered morally acceptable in differing communities, religions, cultures, and groups makes seeking to legislate moral norms a particularly perilous and precarious task.
17. The difficulty of establishing a unified view about the morality of abortion is evident in considering distinctly different methodological approaches within different religious traditions to considering the questions of personhood and abortion. First, some traditions

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<sup>10</sup> “Moral Discernment in the Churches: A Study Document.” Faith and Order Paper No. 215. World Council of Churches, 2013.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

have “orthodox” or doctrinal theological positions on moral issues that have official, authoritative standing.<sup>13</sup>

18. Second, some traditions have a wider range of acceptable theological positions reflecting different structures of authority: it is easier to identify official Roman Catholic doctrinal positions on abortion because Papal encyclicals hold a particular ecclesial authority rooted in the doctrinal belief that the Pope is St. Peter’s successor; Quakers’ position that abortion is a matter of individual conscience, and therefore should not be a matter subject to legal conditions different from any medical procedure, reflects Quaker belief that religious authority is invested in individual believers who seek knowledge of God and truth individually and in and with community.

19. Third, the idea of “lived religion” reflects the reality that people practicing religion within any tradition understand and live out their beliefs and values in ways that do not always strictly correspond to official teaching: while the Roman Catholic Church officially condemns birth control, 99% of practicing Catholics in the U.S. use contraception at some point in their reproductive lives.<sup>14</sup>

### **The Criminal Abortion Ban Codifies a Sectarian Christian**

#### **Position Not Shared by all Christians**

#### ***Understanding Diversity on Moral Issues Within and Across Christian Traditions***

20. The World Council of Churches (WCC) is the largest and oldest ecumenical movement within Christianity and it is the only organization in the world where official representatives from Eastern Orthodox, Oriental Orthodox, Protestant traditions, and

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<sup>13</sup> The term “doctrine” in this context refers to religious beliefs that are promoted and taught as authoritative for a particular religious community.

<sup>14</sup> Kimberly Daniels and William D. Mosher, “Contraceptive methods women have ever used: United States, 1982-2010,” 62 NAT’L HEALTH STAT. REPS. 1, 1 (2013).



Historic Peace churches work together. Based in Geneva, the WCC has been in existence since 1948 and formal dialogues with the Roman Catholic church began in 1965 when the Vatican began sending official representatives to participate in the Faith and Order Commission.

21. The Faith and Order Commission of the WCC is tasked with addressing “church-dividing issues,” which have historically been considered primarily doctrinal and theological disagreements about eucharist/communion, baptism, and church authority and discipline. Over the last twenty years, it has become increasingly evident that moral issues like homosexuality and abortion are creating both intra-church (within a church/denomination) and inter-church (between traditions/denominations) divisions. In 2013, the Faith and Order Commission published a study guide to help Christians churches address the deep moral divisions that are dividing churches.<sup>15</sup> This document described several factors that contribute to divisions between and among Christian churches, the following are applicable to different theological opinions and beliefs about the ontological status of the pre-nate.
22. “Using Different Sources and Weighing them Differently.”<sup>16</sup> The report identified six faith sources used by different traditions (Holy Spirit, Scripture, Tradition, Teaching Authority, Spirituality, Church Culture). The report also identifies eight human reason and other sapiential sources that some Christian traditions use in moral discernment (Reason; Natural Law; Moral Reasoning; Natural, Social, and Human Sciences; Conscience; Experience; Civil Law and Human Rights; and Culture and Cultural Artifacts). Not all denominations or traditions necessarily use all of these sources, which

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<sup>15</sup> World Council of Churches, “Moral Discernment in the Churches: A Study Document.”

<sup>16</sup> Ibid, 47-48.

means that different traditions do not necessarily agree with the positions of other denominations or acknowledge their moral discernment processes as legitimate. Different denominations also may weigh these sources differently, with one giving more authority to scripture and another more authority to tradition, experience, or science. These differences in the process of moral discernment can create significant disagreements about the question of the ontological status of the prelate, when life begins, and what it even means when we discuss when “life” begins.

23. *“Interpreting Sources Differently.”*<sup>17</sup> While the Bible is a shared sacred text across Christian traditions, there is no agreement across these traditions on what should be included in the canon,<sup>18</sup> meaning that different traditions include different books in their bibles. This means that Orthodox, Roman Catholics, and Protestants have different Bibles.
24. In addition to a different set of books in these Bibles, very few Christians read their Christian Bible in the original Hebrew, Koine Greek, and Aramaic. This means that most Christians are reading their Bibles in translation. The act of translating a text from one language to another is an act of interpretation as one must choose which word will best render the meaning of the original into the translated language. Decisions about how to render the meaning of the original text are influenced by theological commitments, tradition history, attitudes toward scholarship, and a host of other issues. These differences in translation create a range of interpretations of Christian scripture that reflect distinctly different theological beliefs and ideologies, including different positions on gestation and the meaning and value of prenatal existence.

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<sup>17</sup> Ibid., 49-50.

<sup>18</sup> The term “canon” refers to which texts are accepted as sacred scripture.

25. Interpretation of sacred scripture varies widely across different Christian traditions. The differences can be so profound that the interpretive methods practiced by Christians who use different methods, biblical literalism and the historical-critical approach for instance, can shape interpretations of Christianity that are almost unrecognizable as the same religion.
26. Biblical literalists believe that the Bible is the pure and true word of God to humanity. As such it represents God's authoritative instruction for how Christians are supposed to live their lives, worship God, and prepare for the life to come. Biblical literalists believe that they can turn to the Bible for answers to contemporary moral questions in our society. They believe that the words of the Bible are to be read literally and enforced. Most biblical literalists are also often fundamentalists who believe that their faith is not only the way they should live their own lives, but that the correctness of their beliefs provides them with a moral imperative to impose their morality on others – both through moral suasion and through the legislative process.
27. People who use the historical-critical approach are interested in trying to discern first what the meaning of a particular text or story was in its own day and time. That means that attention is paid to the original language and different possible meanings for words or concepts than we might understand today. Attention is also paid to other historical documents of the period that might shed light on the cultures surrounding the Israelite people and that consequently might offer insight into understanding the Biblical narrative more fully. There is attention to trying to understand reasons behind cultural and social norms and prohibitions in the Bible in an attempt to discern whether these are still valid positions in modern times.

28. *"Conflict between Competing Principles."*<sup>19</sup> There are a wide range of theological principles that animate and inform Christian theology and praxis. These principles often both reflect and shape different denominational understandings of what it means to be Christian. These principles include things like "sanctity of life" or "respect for moral agency." There may be times when two deeply held principles conflict and create a moral dilemma. Sometimes these competing principles shape conflict between traditions when they choose to elevate different principles that resolve a moral question in different ways.
29. *"Applying the Same Principle Differently."*<sup>20</sup> Even when denominations or traditions share and affirm the same principle, they may understand and apply that principle differently. This is the case in the question of the ontological status of the prelate with regards to the principle of "sanctity of life." Some Christians have interpreted the principle of "sanctity of life" as applying to the prelate from the moment of conception. However, there are Christians who do not share the theological belief that a prelate is fully human at the moment of conception in the same way that a pregnant person is human. These Christians who share a concern for the "sanctity of life," understand that principle to apply to the life of the pregnant person in ways that protect their body as sacred and inviolable. A forced pregnancy by the state of Wyoming would therefore violate the sanctity of the life of the pregnant person.
30. While I have described these situations as conflict between different traditions and denominations, they also sometimes cause conflict and division within a tradition or denomination when different groups differ in their moral discernment.

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<sup>19</sup> World Council of Churches, "Moral Discernment in the Churches: A Study Document," 50-51.

<sup>20</sup> Ibid., 51-52.

31. There is no unanimity of belief among Christians on the question of the ontological status of the prelate. There is no univocal Christian position on this question in Christian history. Positions have changed and people and denominations have changed their opinion on this question over time. Reformed theology, feminist theology, and process theology have all demonstrated that Christians can change how we think about circumstances that in other eras might have been accepted as natural law, predestination, or the will of God. In fact, changing Christian attitudes about sexuality, sexual behavior, artificial contraception, and abortion are reflections of the dynamic nature of living religious traditions that adapt and grow over time.

*Diversity of Theological Understanding of the Prenate Within Christian History*

32. Abortion is not a major topic of discussion in the early church or for much of Christian history for that matter. When abortion is addressed, it is often part of a larger denouncement of sexual immorality (e.g. contraception, masturbation, and other forms of sexual activity without a procreative intent) or reflects concern about women's failure to adhere to the sexual and social gender norms of patriarchal societies associated with the control of women's sexuality.<sup>21</sup>

33. From a theological perspective, ontological questions (which are questions of being) relate to understanding what it means to be human, particularly in relation to God as the Creator. When Christian theologians address ontological questions about human existence, they are concerned with matters of what it means to be "made in the image of God" or when the soul is believed to enter the body. Christian ontological inquiry and

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<sup>21</sup> Beverly Wildung Harrison, *Our Right to Choose: Toward a New Ethic of Abortion*, Boston: Beacon Press, 1983, ch. 6.

debate about human “being” or “personhood” should be understood as metaphysical inquiry.<sup>22</sup>

34. Throughout the history of Christianity, there have been a variety of debates about the nature and origin of the soul as well as about when ensoulment happens. The three understandings of when ensoulment can occur are 1) at birth (the traditional Jewish view); 2) “delayed hominization,” which is the belief that the soul enters the prelate at some point during gestation; and 3) ““immediate ensoulment,” which holds that the soul is present from the moment of conception.
35. The position of delayed hominization, which was adopted from Aristotle’s distinction between a “formed” and an “unformed” prelate, has been the dominant position through much of Christian history. It was held by both Augustine and Aquinas, widely regarded as two of the most influential theologians in the Christian tradition.<sup>23</sup>
36. Christian theologians often equated “formation” with the idea of *animation* or *quickening*, which refers to the first movements of a prelate that a pregnant woman can feel. For most of human history, it was not until quickening occurred that pregnancy could be definitively confirmed, historically offering women some measure of control over their bodies and their fertility. Quickening generally occurs in the fourth or fifth month of pregnancy.<sup>24</sup> Quickening was often connected with ensoulment and regarded as the moment when the soul entered the prelate. Many theologians held that the termination of pregnancy before quickening was either licit or a lesser sin than an abortion that took place after formation, quickening, or ensoulment. The practice of

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<sup>22</sup> Peters, *Trust Women*, 128-131.

<sup>23</sup> Ignacio Castuera, “A Social History of Christian Thought on Abortion: Ambiguity vs. Certainty in Moral Debate,” *American Journal of Economics and Sociology* 76, no. 1 (2017): 164.

<sup>24</sup> Peters, *Trust Women*, 94.

prohibiting abortion only after the soul “animated” has been the dominant position throughout the majority of Christian history.

37. Augustine, for instance, wrote that abortion before formation or ensoulment incurred a fine while procuring an abortion after this point was regarded as murder and should be punished with death.<sup>25</sup> In considering the question of whether prenatals have eternal souls that will be resurrected, he makes a clear distinction between prenatals that are “fully formed” and prenatals that are “undeveloped.” He compares the undeveloped prenatal to a seed that failed to germinate and speaks of it as perishing or simply ceasing to exist.

Augustine does not imagine an eternal status for the souls of these undeveloped prenatals.<sup>26</sup>

38. Aquinas did not consider abortion homicide until after ensoulment and he did not believe that ensoulment took place at conception. Aquinas considered abortion a sin because it was a form of contraception, not because he considered the prenatal a “human being.”

39. Theological attention to the developmental progress of the prenatal and the idea of delayed ensoulment was the dominant position from Augustine up until the seventeenth century.<sup>27</sup>

40. Aquinas’ concern that abortion hides a woman’s sin is a dominant theme throughout Christian history. With a great deal of justification for prohibiting abortion in the Christian tradition exhibiting a vested patriarchal interest in the social control of women’s behavior. As Clement of Alexandria put it in the second century, “to indulge in intercourse without intending children is to outrage nature.”<sup>28</sup> Clement’s denunciation of

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<sup>25</sup> Paul J. Carrick, *Medical Ethics in the Ancient World*, Washington, DC: Georgetown University Press, 2001, 144–145, no. 71.

<sup>26</sup> Peters, *Trust Women*, 93.

<sup>27</sup> Peters, *Trust Women*, 94.

abortion is thus related to his concern that women are using abortion to hide “fornication” or illicit sexual activity. In Spain, in the early 4<sup>th</sup> century, the Synod of Elvira held that, “If a woman becomes pregnant by committing adultery, while her husband is absent, and after the act she destroys the child, it is proper to keep her from communion until death, because she has doubled her crime.”<sup>29</sup>

41. Roman Catholic penitential manuals that outline appropriate penance for a wide variety of sins also offer insight into how Catholics viewed the sin of abortion. While penance varied between countries and across the centuries, scholars have noted relatively lenient ecclesial positions associated with abortion and some manuals clearly reflect a belief in delayed ensoulment, which is evident in more serious penance assigned for abortions after quickening.<sup>30</sup>

42. In the 17<sup>th</sup> century, Pope Innocent XI explicitly rejected the idea that abortion before quickening (or prenatal movement) was acceptable in order to spare a pregnant girl death or shame. Implicit in this denunciation is the presumption that abortions were being procured to hide illicit sexual activity, likely for young unmarried women.<sup>31</sup> For many church leaders throughout Christian history, the prohibition of abortion has been linked to condemnation of the woman’s sexual behavior and the possibility that an abortion might allow her sexual immorality to go undetected and thus, uncensured. In these cases, it is clear that the prohibition on abortion was a direct attempt at controlling the sexual behavior of women.

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<sup>28</sup> Clement, Simon Wood, trans. *Christ the Educator*, Vol. 23, Fathers of the Church, Baltimore: Catholic University of America, 1954.

<sup>29</sup> Council of Elvira, Granada, Spain, 306 CE, Canon 63.

<sup>30</sup> Margaret D. Kamitsuka, *Abortion and the Christian Tradition: A Pro-Choice Theological Ethic*, Louisville: Westminster John Knox Press, 2019, 29-32.

<sup>31</sup> Harmon L. Smith and Louis W. Hodges, *The Christian and His Decisions: An Introduction to Christian Ethics*, Nashville: Abingdon, 1969, 237.



43. The longstanding Roman Catholic belief that the purpose of sex is exclusively for procreation was prominently upheld in *Casti connubii* by Pius XI in 1930, “Since, therefore, the conjugal act is destined primarily by nature for the begetting of children, those who in exercising it deliberately frustrate its natural power and purpose sin against nature and commit a deed which is shameful and intrinsically vicious.”
44. For nearly the first 1900 years of Christianity, concerns over abortion focused primarily on sexual sin, controlling the sexual behavior of women, or policing sexual activity to ensure that it pursued a procreative intent.

#### *History of Abortion and Religion in the United States*

45. Abortion was practiced in the United States from the earliest days of our formation as evidenced by the inclusion of a recipe for a homemade abortifacient in a popular early American primer written by Benjamin Franklin in 1748.<sup>32</sup> While Franklin’s 1748 recipe assumes use by “unmarry’d Women,” physicians’ records indicate in the 19<sup>th</sup> century that abortion was widely used by white and immigrant married as well as unmarried women across all social classes.<sup>33</sup> In addition to these records, the widespread availability of abortion<sup>34</sup> and the significant drop in birth rates during this period, demonstrate that abortion was one common component of controlling and spacing births throughout much of the 19<sup>th</sup> century.<sup>35</sup>
46. In the middle decades of the 1800’s, a group of white male physicians, concerned by both their Christian conviction that abortion was a sin and lowering birth rates among white

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<sup>32</sup> Molly Farrell, “Ben Franklin Put an Abortion Recipe in His Math Textbook,” Slate, May 5, 2022;

<https://slate.com/news-and-politics/2022/05/ben-franklin-american-instructor-textbook-abortion-recipe.html>

<sup>33</sup> James C. Mohr, *Abortion in America: The Origins and Evolution of National Policy, 1800-1900*, New York: Oxford University Press, 1978, ch. 3.

<sup>34</sup> Rebecca Onion, “19<sup>th</sup>-Century Classified Ads for Abortifacients and Contraceptives,” Slate, Aug. 6, 2014; <https://slate.com/human-interest/2014/08/history-of-contraception-19th-century-classified-ads-for-abortifacients-and-contraceptives.html>

<sup>35</sup> Mohr, ch. 3.

women in comparison with immigrant women, convinced the recently formed American Medical Association to take on the project of criminalizing abortion. This zealous group of Christian physicians sought to criminalize the procedure, which they opposed based on their theological belief that ensoulment occurs at the moment of conception.<sup>36</sup> The fact that it was Christian morality and Christian patriarchal concern over American women refusing to perform their God-given roles as wives and mothers reinforces the fact that it is Christian theology that has driven anti-abortion attitudes in the US.

47. Notably, the physicians involved in the campaign complained that Protestant clergy refused to use their moral influence to decry abortion and historian James Mohr has noted that their crusade “was probably least successful in the churches.”<sup>37</sup>

48. The Physician’s Crusade was the watershed in our nation’s history that reshaped how we think and talk about abortion in this country, shifting the narrative about abortion away from women’s control of their fertility to a conversation framed by the idea that women need to “justify” their desire to end a pregnancy, to today’s attempts to eliminate access to abortion and bestow personhood on developing prenatals.<sup>38</sup>

49. While abortion had effectively been criminalized in all 50 states by the turn of the 20<sup>th</sup> century, legal abortions were still available in most states. Approval of abortions was first governed by medical professionals and then in the Post WW-II era, through petition to hospital ethics committees. Abortions procured outside of these legal channels had been tacitly accepted, with law enforcement often turning a blind eye unless a maternal death prompted investigation.<sup>39</sup> A significant pronatalist sentiment followed World War II,

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<sup>36</sup> Committee on Criminal Abortion, American Medical Association, “Report on Criminal Abortion,” Philadelphia: Collins, Printer, 1871, 13.

<sup>37</sup> Mohr, 185.

<sup>38</sup> Peters, *Trust Women*, 109-113.

along with its accompanying baby boom, prompting raids of illegal abortion providers.

This crackdown drove out licensed physicians who had been providing safe abortions and set the stage for increasingly dangerous conditions for abortion and an increase in negative consequences.<sup>40</sup>

50. Despite the danger, women continued to seek abortions. While middle and upper-middle class women were still able to find safe abortion, it was increasingly poor and working-class women who sought underground abortions. By the 1960s, the number of sick, injured, and dying women seeking care in hospital emergencies rooms was gaining national attention. In 1967, ten thousand women were admitted in hospitals in New York City for treatment after unsafe abortions.<sup>41</sup>

51. In 1962, the American Law Institute developed model legislation for abortion reform that would decriminalize abortion for PRIM reasons – prenatal health, rape, incest, and mother’s life.<sup>42</sup> This began a push for abortion reform at the state-level. By the late 1960s, parallel movements to repeal or reform existing abortion laws were active in states across the country.

52. Th Catholic hierarchy quickly mobilized in California and New York, which were two of the early battleground states. This mobilization included actions in local churches that beseeched Catholics to fight the new abortion laws as well as hiring political consulting firms to help manage their campaigns against reforming abortion laws.<sup>43</sup> In 1968, the bishops created the National Right to Life Committee (NRLC) to coordinate the work of

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<sup>39</sup> Peters, *Trust Women*, 119.

<sup>40</sup> Peters, *Trust Women*, 120.

<sup>41</sup> Ibid.

<sup>42</sup> Patricia Miller, *Good Catholics: The Battle over Abortion in the Catholic Church*, Berkeley: University of California Press, 2015, 42.

<sup>43</sup> Ibid, 43–46.

local right-to-life groups across the country. NRLC continued to work closely with the bishops and to receive significant funding from them.<sup>44</sup>

53. In the 1960s, two significant episodes raised public awareness about the seriousness of some fetal anomalies. In 1962, Sherri Finkbine, a popular children's television host and mother of four, sought an abortion after discovering she had taken a known teratogen. Finkbine's case became widely known when she was denied an abortion in Arizona and had to go to Europe for the procedure. Press coverage helped educate the public about the severity of the birth defects associated with Thalidomide and about Finkbine's difficulties in securing a safe and legal abortion.<sup>45</sup> A few years later, an epidemic of Rubella or German measles broke out and spread across the country giving pregnant women a 50-50 chance that their babies would be born with diminished mental capacity, heart defects, blindness, deafness, and disease of bone and blood abnormalities. These cases played an important role in the growing interest in abortion reform among professionals in the health, social service, and law sectors.<sup>46</sup>

54. Increased public awareness about what were referred to as "therapeutic" abortions, meaning abortion for PRIM reasons, were increasingly persuasive for Protestants, including evangelicals, Jehovah's Witnesses, and Mormons. The Southern Baptist Convention and the National Association of Evangelicals both passed resolutions in 1971 that called for the decriminalization of abortion for PRIM reasons.<sup>47</sup> Many of these churches' current denominational statements still reflect these PRIM reasons as

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<sup>44</sup> Ibid., 46.

<sup>45</sup> Faye Ginsburg, *Contested Lives: The Abortion Debate in an American Community*, Los Angeles: University of California Press, 1989, 35-37.

<sup>46</sup> Ibid, 37.

<sup>47</sup> Linda Greenhouse and Reva B. Siegel, *Before Roe v. Wade: Voices That Shaped the Abortion Debate before the Supreme Court's Ruling*, New Haven: Yale Law School, 2012, 71-73.

justifiable exceptions to a general disapproval of abortion. The theological concern undergirding these churches' support for decriminalization under PRIM conditions reflected a compassion for the suffering of women, children, and families and well as increasing affirmation of women's moral agency in the wake of the emerging women's rights movement. Concern for "fetal life" or claims of "fetal personhood" were not prominent aspects of these discussions.

55. In 1967, nineteen Protestant ministers and two rabbis publicly announced the formation of the Clergy Consultation Service (CCS) on Abortion via a front-page story in the New York Times. At a point in this country's history when legal access to abortion was almost nonexistent and deaths from botched abortions were estimated at approaching 5000 a year, clergy across the country courageously began a public campaign to help women secure safe abortions in defiance of the law.<sup>48</sup> By the time abortion was decriminalized five and a half years later, over 3,000 largely white, male clergy had been active in 38 states providing counseling and referral to an estimated 450,000 women.<sup>49</sup> The CCS issued a statement on abortion law reform that responded to the claim that "all abortion is 'murder'" with "We affirm that there is a period during gestation when, although there may be *embryo* life in the fetus, there is no living *child* upon whom the crime of murder can be committed."<sup>50</sup>

56. As the abortion reform movement began to push for reforms that went beyond PRIM reasons, some evangelical leaders began to express increasing discomfort with the idea of elective abortion. *Christianity Today*, the leading evangelical periodical reversed its

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<sup>48</sup> Doris Andrea Dirks and Patricia A. Relf, *To Offer Compassion: A History of the Clergy Consultation Service on Abortion*, Madison: University of WI Press, 2017.

<sup>49</sup> Ibid.

<sup>50</sup> "Clergy Statement on Abortion Law Reform and Consultation Service on Abortion," as quoted in Tom Davis, *Sacred Work: Planned Parenthood and Its Clergy Alliances*, New Brunswick, NJ: Rutgers, 2006, 129-130.

position on reforming abortion laws. Evangelicals held that the pre-nate had value “even if they could not say for sure that life began at conception.”<sup>51</sup>

57. When the *Roe v Wade* decision made elective abortion effectively the law of the land, it mobilized increasing numbers of people to take up the pro-life cause, many of them evangelicals in the South who thought they were going to be able to keep the reforms to PRIM abortions.<sup>52</sup> Evangelicals’ discomfort with elective abortion was connected to a fear that the ease of access of abortion would contribute to increased sexual licentiousness in the culture. And these concerns paralleled growing discomfort among evangelicals with what they saw as declining moral values across the country in the wake of the women’s liberation and LGBT rights movements. The Moral Majority seized the opportunity to capitalize on latent evangelical discomfort with abortion and used this issue to mobilize evangelical political support in the culture wars.<sup>53</sup> As evangelical organizations like Focus on the Family and the Family Research Council joined the Moral Majority in mobilizing evangelicals around the abortion issue, prominent evangelical leaders like James Dobson, Tim LaHaye, Jerry Falwell, and Pat Robertson used their multi-media empires to move evangelicals toward fundamentalist Christianity, including biblical “proof” of abortion’s immorality as well as the idea that life begins at conception.<sup>54</sup>

58. Through the Human Life Amendment, the implementation of mandatory ultrasounds in some states, and the graphic imagery and language of later abortions, evangelical and Catholic Christians who oppose abortion have worked to impose their belief that the

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<sup>51</sup> Williams, *Defenders of the Unborn*, 145.

<sup>52</sup> Ibid., 205-212.

<sup>53</sup> Balmer, *Bad Faith*.

<sup>54</sup> Holland, *Tiny You*, 103.

prenate is an “unborn baby” onto the American public. In much the same way that some Christians opposed contraception in the early 20<sup>th</sup> century, arguing that it contravened a belief that procreation was the sole purpose of sexual intercourse, evangelical and Roman Catholic opposition to abortion reflects theological beliefs about procreation, prenatal life, and sexual activity that are not shared by broad swathes of the American public.<sup>55</sup>

**The Criminal Abortion Ban Imposes a Sectarian Christian View of “Personhood,”  
on a Wide Diversity of Religious and Non-Religious Beliefs.**

59. Beliefs about when life begins and how we define “personhood” are both highly contested and heavily imbued with religious and theological meaning. This contestation is largely played out in debates about abortion in the United States. Generally speaking, topics related to abortion are not a central focus for many religions in the way that they are for Roman Catholic and evangelical Christian denominations. The Criminal Abortion Ban promotes a particular sectarian Christian theological view about the moral status of the prenat associated with Roman Catholic and evangelical Christian theology that is not shared by all Christians, nor by many non-Christians. By codifying one particular Christian sectarian theological belief, the Criminal Abortion Ban violates the religious beliefs of Wyoming residents who do not share this religious belief, are fertile, and may want to consider abortion as an available aspect of their reproductive options.

***Religious Views on “Personhood” or When Life Begins Vary***

***Widely Across and Within Religions***

60. The question of when life begins and how to define personhood are foundational aspects of debates about legal access to abortion care. Cultural and legal positions and related

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<sup>55</sup> “Public Opinion on Abortion.” *Pew Research Center’s Religion & Public Life Project* (blog). Accessed July 15, 2023. <https://www.pewresearch.org/religion/fact-sheet/public-opinion-on-abortion/>.

questions about the beginning and end of life are deeply informed by religious beliefs and teachings on these questions.

61. While Judaism has been described as pronatalist, meaning that it supports and promotes child-bearing and parenthood as a moral good for the Jewish community, this does not translate into either an anti-abortion position or a belief that prenatal life should be afforded the legal or moral status of “personhood.” Jewish law defines personhood as beginning at birth, with the first breath.<sup>56</sup> The primary text that is cited in Jewish conversations about abortion is Exodus 21:22-25. In this text, two men fight and one of them pushes a pregnant woman causing a miscarriage. The penalties outlined in Exodus, monetary compensation to the woman’s husband for the loss of the pregnancy vs. invocation of the principle of *lex talionis* or an eye for an eye, tooth for tooth, etc. as compensation for any damage to the pregnant woman. This text makes it clear that in Jewish law the pregnant woman’s life is not simply more valuable than the prelate but it is on a qualitatively different ontological plane.<sup>57</sup> This distinction between the qualitative difference between the woman as a *nefesh* or life and the prelate as potential life is rejected and undermined by the Wyoming Criminal Abortion Ban, which declares by fiat that a prelate is a life in the same way that a baby or a pregnant woman are a life. In pregnancies where the pregnant woman’s life is at risk, not only does saving her life takes precedence over the prelate, in some cases it is required by Jewish law. Maimonides refers to the prelate as a *rodef* or “pursuer with the intent to kill” in these circumstances and holds that abortion is permissible by “medicine or by hand” to save the woman’s life.

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<sup>56</sup> Joseph G. Schenker, The Beginning of Life: Status of Embryo, 25 J. OF ASSISTED REPROD. & GENETICS , 271, 271-76 (2008).

<sup>57</sup> Daniel Schiff, *Abortion in Judaism*, Cambridge: Cambridge University Press. 2002, 10-11.



62. Within Islam, there is a well-developed theological understanding of the stages of prenatal development that come from the Quran and the Hadith,<sup>58</sup> which outline a clear distinction between an “unformed” fetus and a “formed” fetus. The significant factor that marks the difference between the two is the process of ensoulment or when it is believed that the soul enters the prelate. Ensoulment is the point at which Muslims believe that the prelate gains a personhood. The Quran outlines four stages of prenatal development<sup>59</sup> that are then detailed more specifically in the Hadith. The first forty days after fertilization are considered *nufsa*, or semen; the next forty days are marked as an *alaqa*, or dot; and the final forty days of the unformed period, is the *mudgha*, or lump of flesh. After 120 days, “the angel is sent and he breathes the *ruh*, (spirit) into it.”<sup>60</sup> There is broad religious consensus that ensoulment occurs at 120 days.<sup>61</sup> While different religious authorities have offered a variety of interpretations of the permissibility of abortion under Islamic law, primary considerations about the moral value of prenatal life do not grant the prelate the same legal status as a newborn.<sup>62</sup> Even when abortion is prohibited within Islamic law, there are justifiable exceptions when abortion is allowed. These include when the mother’s life is in danger, when there is danger from a pregnancy to a nursing child, and when there is expectation of fetal deformity.<sup>63</sup>

63. Unitarian Universalists (UUs) also have many points of view, and explicitly hold the fundamental belief in respecting differing viewpoints. Unitarian theology thus does not

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<sup>58</sup> The Hadith record the sayings of the Prophet Muhammad and, along with the Quran, are considered sacred Muslim texts.

<sup>59</sup> Q 23:12-13

<sup>60</sup> Sa’diyya Shaikh, “Family Planning, Contraception, and Abortion in Islam,” in *T&T Clark Reader in Abortion and Religion: Jewish, Christian, and Muslim Perspectives*, eds. Rebecca Todd Peters and Margaret D. Kamitsuka, London: T&T Clark, Bloomsbury, 2023, 324.

<sup>61</sup> Zahra Ayubi, “Muslim Biomedical Ethics of Neonatal Care: Theory, Praxis, Authority,” *Religion and Ethics in the Neonatal Intensive Care*, New York, Oxford, 2019, 97.

<sup>62</sup> Ibid., 39-40.

<sup>63</sup> Shaikh, 325.

require congregants to hold any particular belief about when life begins but rather chooses to focus on fostering a deeper understanding of how to value the sacredness of life and promote social justice in communities as the pathway toward orthopraxy (the concept of right-living informed by their faith). Their emphasis in abortion discussions is on the full humanity of pregnant people and recognizing the “inherent worth and dignity of every person, the right of individual conscience and respect for human life are inalienable rights due every person; and that the personal right to choose in regard to contraception and abortion is an important aspect of these rights.”<sup>64</sup> The UU practice of child dedications is a further witness to their recognition of humanity and personhood as coinciding with birth.

64. The Greek Orthodox Church of America describes human life as beginning at the moment of conception in the womb. They allow for the use of “safe and non-abortifacient” contraception to prevent pregnancy and while they support the use of reproductive technologies for couples who cannot conceive without aid, they do not approve of any methods that result in the destruction of “‘supernumerary’ fertilized ova.”<sup>65</sup>

65. Through the majority of Christian history, the Roman Catholic Church’s position on abortion was primarily associated with the idea of “ensoulment,” which was thought to occur after quickening.<sup>66</sup> Penitentials and other historic records document that for the majority of Christian history, the church’s primary concern about abortion was the concealment of sexual sin. In 1869, Pope Pius IX dropped the distinction between “*fetus*

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<sup>64</sup> “Right to Choose,” Social Witness Statements, Unitarian Universalist Association, July 1, 1987.  
<https://www.uua.org/action/statements/right-choose>.

<sup>65</sup> Greek Orthodox Church, “Social Ethos of the Orthodox Church.”

<sup>66</sup> “Quickening” refers to the first felt movements by a woman of her pregnancy—usually the fourth or fifth month of pregnancy.

*animatus*" and "*fetus inanimatus*."<sup>67</sup> While this action authorized excommunication for women who had abortion at any stage, it was not until 1965 in *Gaudium et Spes* that the Roman Catholic Church officially identified its concern over abortion with the idea that "[l]ife from its conception is to be guarded with the greatest care."<sup>68</sup> Thus the position that "life begins at conception" is a relatively recent development within Catholicism and among practicing Catholics.

66. Not all Catholics share the Roman Catholic Curia's theological beliefs about the moral status of prenatal life and personhood and the majority of Catholic laity support legal access to abortion – white Catholics (62%), Hispanic Catholics (61%), and other Catholics of color (71%).<sup>69</sup> The organized movement of Catholics for Choice argue that the long-standing fundamental teaching of the primacy of conscience within the Catholic tradition supports lay Catholics' disagreement with the official teachings of the Roman Catholic Church.<sup>70</sup>

67. This is an example of how the complexity of theological positions means that sometimes different theological principles can be at odds with one another even within a particular religious sect. These differences are rightfully adjudicated within those sectarian boundaries where people voluntarily submit to the authority and discipline of religious leaders. This is particularly true when that adjudication relates to the spiritual implications of one's actions regarding access to the eucharist or one's status in the afterlife. It is quite a different matter for the State to adopt a particular sectarian position

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<sup>67</sup> Sara Dubow, *Ourselves Unborn: A History Of The Fetus In Modern America*, New York: Oxford, 2011.

<sup>68</sup> Pope Paul VI, *Gaudium et Spes*, § 51 (December 7, 1965).

<sup>69</sup> PRRI, "Abortion Attitudes in a Post-Roe World: Findings From the 50-State 2022 American Values Atlas," Washington: PRRI, February 23, 2023. <https://www.prii.org/research/abortion-attitudes-in-a-post-roe-world-findings-from-the-50-state-2022-american-values-atlas/>.

<sup>70</sup> Catholics for Choice. "Conscience." Accessed July 12, 2023. <https://www.catholicsforchoice.org/issues/conscience/>.

on a theological question that is then imposed on other citizens who do not share that belief, particularly when those religious beliefs are then used to deny people basic human rights. Codifying sectarian religious beliefs and imposing them on people with different religious beliefs is the beginning of moving toward theocracy.

68. Protestant Christianity is comprised of a wide variety of denominations, with a range of theological beliefs about the moral status of prenatal life and about abortion, though the majority of these traditions support legal access to abortion. Historically, mainline Protestant denominations<sup>71</sup> have been on the record at the national level in support of legal access to abortion in the United States since before *Roe v. Wade*.<sup>72</sup> The diversity of authority structures within these denominations means that there is wide variance about the meaning of the national stance for local congregations or individual members. There is also a range of beliefs about the moral status of prenatal life within mainline Protestant communities. The Disciples of Christ and the Presbyterian Church USA recognize that Christians do not have consensus on the question of when life begins.<sup>73</sup> The UCC outline a range of developmental gestational stages that could mark the beginning of human life but decline to define a theological consensus on when life begins, instead highlighting that decisions about abortion require weighing potentially competing moral claims, one of which is the “*potentiality* of human personhood” in the embryo and with a growing sense of moral worth as the pregnancy develops.<sup>74</sup>

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<sup>71</sup> These include the American Baptist Church (ABC), Disciples of Christ, Episcopal Church, Evangelical Lutheran Church of America (ELCA), United Methodist Church (UMC), Presbyterian Church (USA), and United Church of Christ (UCC).

<sup>72</sup> *Roe v. Wade*, 410 U.S. 113 (1973).

<sup>73</sup> “Statement on the Supreme Court Dobbs Decision - Christian Church (Disciples of Christ).” Accessed July 12, 2023. <https://disciples.org/general-assembly/statement-on-the-supreme-court-dobbs-decision/>; Minutes of the 217th General Assembly (2006), Presbyterian Church (U.S.A.), p. 905

<sup>74</sup> United Church of Christ. “Reproductive Justice.” Accessed July 12, 2023. <https://www.ucc.org/reproductive-justice/>.

69. While evangelicalism lacks the authority structures of the Roman Catholic Church to establish clear dogmatic positions, there is strong evidence of white evangelical opposition to legal abortion access. While this position is firm and consistent across evangelical leaders and denominations, it is a recent theological position that gained dominance in evangelical circles through the work of grassroots pro-life advocates who spread fetal imagery and pro-life ideas across white evangelical spaces through media, films, and Christian bookstores.<sup>75</sup>

70. Historically Black Protestant denominations<sup>76</sup> represent a much wider theological range (from Methodist, to Baptist, to Pentecostalism) than mainline Protestantism, which has historically been predominantly white. Black Protestant churches have historically been reluctant to openly discuss issues of sexuality, including abortion, as a result of the way that Black sexuality has been exploited through pathologizing narratives about the sexuality of Black people that began during slavery and continued after emancipation.<sup>77</sup> A recognized “politics of respectability” that sought to increase acceptance of Black women in majority white cultures contributed to Black churches focusing on policing young women’s bodies, in particular, with a focus on messages of celibacy before marriage and sex within marriage.<sup>78</sup>

71. The Mennonite Church USA offers a morally complex and biblically informed position on the question of when life begins. They seek to affirm that the pre-nate has more value

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<sup>75</sup> Holland, 95-104.

<sup>76</sup> These include African Methodist Episcopal (AME), African Methodist Episcopal Zion (AME Zion), National Baptist Convention of America, National Baptist Convention USA, Progressive National Baptist, Church of God in Christ (COGIC), Christian Methodist Episcopal (CME).

<sup>77</sup> Kelly Brown Douglas, *Sexuality and the Black Church: A Womanist Perspective*, Maryknoll, NY: Orbis Books, 1999; Marla Frederick, *Between Sundays: Black Women and Everyday Struggles of Faith*. Berkeley: University of California Press, 2003, 187-189.

<sup>78</sup> Monique Moultrie, *Passionate and Pious: Religious Media and Black Women's Sexuality*, Durham, NC: Duke, 2017, 4-12.

than simple tissue but also that the prelate should not be treated as a human/person “in the full sense of that term.”<sup>79</sup> So while they affirm that “life begins at conception,” they do not interpret that this statement means that a prelate is ontologically the same as a baby. The Mennonites also hold that “any attempt to define the beginning of humanness at a point along the spectrum of development is a mistake, tempting as it may be.”<sup>80</sup> The Mennonites recognize (in line the WCC study) that sometimes deeply held values can come in conflict and they believe that when this happens, the faith community should be a place for moral discernment.

72. The Church of Jesus Christ of Latter-day Saints (LDS), or the Mormons, do not have a theological stand on the ontological status of the prelate, nor do they take an official position on the question of when life begins. The LDS church does allow for abortion under PRIM conditions.<sup>81</sup>

73. Hindu belief in the cycle of samsara (reincarnation) forms the foundation of a religious worldview that understands life as cyclical and regenerative as individual souls seek release from the painful cycle of birth and rebirth through reaching nirvana. Traditional Hindu texts teach that the life-principle (soul) is present from the moment of creation and present abortion in a negative light because it interferes with the cycle of samsara.<sup>82</sup> The life-principle is not destroyed by abortion, but, rather, hindered in its journey.<sup>83</sup> This is a qualitatively different reasoning than Western religious traditions that show concern for prenatal life based on its supposed “personhood.” However, more modern Hindu texts

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<sup>79</sup> Mennonite Church USA. “Statement on Abortion - 2003.” Accessed July 12, 2023. <https://www.mennoniteusa.org/resource-portal/resource/statement-on-abortion-2005/>.

<sup>80</sup> Ibid.

<sup>81</sup> “Abortion.” newsroom.churchofjesuschrist.org, November 8, 2012. <http://newsroom.churchofjesuschrist.org/official-statement/abortion>.

<sup>82</sup> Edward Omar Moad, “Hindu Ethics on the Moral Question of Abortion,” 14 EUBIOS J. OF ASIAN & INT’L BIOETHICS 149, 149-50 (2004).

<sup>83</sup> Ibid.

teach that an individual's karma (accumulated effects of good and bad actions) determines their spiritual path, which means that decisions about abortion are generally left up to individuals.<sup>84</sup> In addition, in pregnancies that threaten the life and health of the pregnant women, abortion is supported under Hindu belief systems.<sup>85</sup>

**Religious Beliefs About These Topics Vary Within Religions**

74. A person's beliefs about the ontological status of the prelate and whether it attains personhood during pregnancy or upon birth is often closely tied to their beliefs regarding the morality of abortion. But questions about the ontological and moral status of the prelate in utero are religious and philosophical questions, not scientific ones. For religious people, the position one holds on these questions reflects their personal principles of faith and their religious and cultural traditions.
75. But religious beliefs about these topics also vary within religions. This is true of all religions. Lived religion is very different from the teachings of a religious tradition at a general level.
76. By declaring that an "unborn baby" exists from conception and that it is a "member of the human race," Wyoming is granting human rights to the prelate by fiat. But Wyoming residents, like all groups, have differing beliefs about the moral status of prelates, about the moral permissibility of abortion, and about the legitimization of forced pregnancy. Those differences exist both among and within religious groups.
77. The Criminal Abortion Ban, then, allows the State to impose the idea that there is such an entity as an "unborn baby" that possesses human rights on all citizens of Wyoming, despite significant religious and cultural debate about when a prelate attains personhood.

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<sup>84</sup> Swami Abhipadananda & Swami Jyotir Vakyananda, *Hindus and Choice, The Continuum of Choice in Sanatana Dharma*, RELIGIOUS COAL. FOR REPROD. CHOICE, <https://rcrc.org/hindu>.

<sup>85</sup> Moad, "Hindu Ethics on the Moral Question of Abortion."

### **Conclusion**

78. The effect of Wyoming's Criminal Abortion Ban is to recognize a particular, sectarian theological belief that "life begins at conception" as definitive for all people in the state of Wyoming. In so doing, the State imposes a specific religious view of the meaning and value of the prelate on everyone in Wyoming, despite significant religious and cultural differences in ontological understandings of the prelate.

79. In endorsing a narrow set of religious beliefs that criminalize abortion in the state of Wyoming, the state violates the ability of Wyoming residents who hold different religious beliefs about the ontological status of the prelate and when life begins to make essential decisions about whether to continue or end a pregnancy that reflect their personal religious beliefs and commitments. In so doing, the Criminal Abortion Ban not only codifies a sectarian religious belief into Wyoming law, it uses that particular religious belief to compel pregnant people to gestate and bear children against their will, violating their bodily autonomy, their moral agency, and their human dignity.

### **FACTS OR DATA CONSIDERED IN FORMING MY OPINIONS**

1. My opinions are based on my education, training, research, and scholarship.

### **EXHIBITS USED TO SUMMARIZE OR SUPPORT MY OPINIONS**

2. None.

### **MY QUALIFICATIONS AND PUBLICATIONS**

3. I am a Professor of Religious Studies at Elon University. I received two B.A. degrees from Rhodes College and my Master of Divinity, M. Phil. and Ph.D. in Christian Social Ethics from the Union Theological Seminary in New York.



4. Ordained in the Presbyterian Church (U.S.A.) in 2001, I have been active denominationally and ecumenically for thirty-three years. I have represented the Presbyterian Church (U.S.A.) as a member of the Faith and Order Standing Commission (“Faith and Order”) of the World Council of Churches (“WCC”) since 2006. I served as co-moderator of the Faith and Order study on Moral Discernment in the Churches, and I have worked extensively on many justice initiatives of the WCC. In November 2017, I served as a consultant to the World Communion of Reformed Churches to plan and co-facilitate a Consultation on Human Sexuality.
5. My professional academic memberships include the Society of Christian Ethics, the American Academy of Religion, and the Society for the Scientific Study of Religion. I am in the presidential line of the Society of Christian Ethics and am currently serving as Vice President of the SCE.
6. My work as a feminist social ethicist focuses on abortion and Reproductive Justice (“RJ”), among other issues. RJ is a framework created by twelve Black women in 1994 that moves beyond the narrow emphasis on “choice” and “rights,” allowing for a broader focus on the wide range of moral concerns related to pregnancy, childbearing, and healthy families. I received the 2018 Walter Wink Scholar-Activist Award from Auburn Seminary in recognition of my work on reproductive justice and poverty and economic justice. My book, *Trust Women: A Progressive Christian Argument for Reproductive Justice*, received the 2018 Indies Silver Award for Women’s Studies and the 2018 Nautilus Silver Award for Religion/Spirituality of Western Thought.
7. In *Trust Women*, I outline how the current debate about abortion in the United States is marked by the expectation of “justification,” namely that women offer sufficiently

“acceptable” reasons why they seek to terminate their pregnancies. The very fact that women must provide socially acceptable reasons for ending a pregnancy is evidence that the societal expectation that women continue pregnancies and bear children is wholly separate from women’s self-understanding of either their desire or capacity for childbearing or childrearing at the time of their pregnancies. In fact, the justification paradigm presumes a certain moral status for prenatal life that reflects minority religious beliefs in this country. In *Trust Women*, I detail multiple intrinsic flaws of the justification framework and argue that it deforms our public understanding of abortion. I further argue that RJ offers a more ethically robust opportunity for public dialogue by placing abortion decision-making within the larger set of reproductive concerns that women navigate.

8. My article in the *Journal of Religious Ethics*, “Listening to Women: Examining the Moral Wisdom of Women Who End Pregnancies,” builds on the ideas put forth in *Trust Women*. The article is based on qualitative research from fourteen interviews I completed with women who terminated wanted pregnancies after poor fetal diagnoses. The article uses a feminist lens to document and examine their narratives and to consider what their moral wisdom can contribute to a deeper understanding of the moral decision to end a pregnancy.
9. My co-edited book *T & T Clark Reader in Abortion and Religion: Jewish, Christian, and Muslim Perspectives* is a collection of fifty-four edited essays that offer an introduction to historical, cultural, social, and theological material for understanding contemporary conversations about abortion in the United States.
10. In my current research project, the Abortion & Religion Project, I have assembled a team of scholars from different faith traditions (White Protestant, Black Protestant, Roman

Catholic, Judaism, and Islam) to interview religiously-identified women having abortions about their abortion decisions and experiences. We have currently completed 147 interviews with women in four regions of the country – South, Midwest, Northeast, and West.

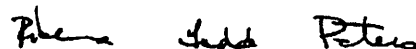
11. My curriculum vitae, which is attached hereto as Exhibit A, provides further detail about my education, training, employment, publications, and professional service.
12. The opinions set forth in this expert report are attributable solely to me. I am not speaking on behalf of any institution or organization with which I am affiliated.

**CASES IN WHICH I HAVE TESTIFIED AS AN EXPERT  
DURING THE PAST FOUR YEARS**

13. *Jane Doe No. 1, et. al v. Attorney General of Indiana, et. al.*

**COMPENSATION**

14. I am being compensated at the rate of \$200 per hour for my work on this case other than providing testimony. I am being compensated at the rate of \$1000 per day for testimony. I will be reimbursed for any reasonable expenses that I incur.
15. Date: July 17, 2023



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Rebecca Todd Peters, M. Div., Ph.D.