

## **The pro-life movement should follow its North Star: Equal protection.**

For nearly fifty years, the pro-life movement worked tirelessly to overturn *Roe v. Wade*—the 1973 Supreme Court ruling that prohibited states from protecting unborn children from the lethal violence of abortion. Millions prayed, marched, petitioned, voted, and made their voices heard to correct a grievous constitutional error. In 2022, those efforts achieved success. *Dobbs v. Jackson Women’s Health Organization* was a generational win, an answer to prayer, and a monumental political and legal achievement. Now that *Roe* is gone, the pro-life movement must direct its efforts to achieving our ultimate goal: ending abortion by ensuring equal protection for children in the womb.

To be pro-life is to affirm that the lives of innocent human beings deserve legal protection from violence, both before and after birth. There can be no distinction between someone’s biological humanity and his or her legal personhood. All human beings are persons. There are no classes of sub-personal human beings. The very idea of a human being who is relegated to the status of a non-person is a moral atrocity. From the earliest embryonic stage to the very end of life, each and every human being is a person and a bearer of fundamental dignity and an unalienable right to life.

Some claim that our Constitution is “silent” on abortion. While it is true that the word “abortion” does not appear in the text, just as words like “infanticide” and “homicide” do not appear, the text of the Constitution, and particularly its principle of “equal protection,” has undeniable implications for the question of elective abortion. The Fourteenth Amendment expressly forbids the states from denying “to any person within [their] jurisdiction the equal protection of the laws.” No exceptions to the equal protection principle are stated, implied, or even contemplated. The principle, on its very face, extends to everyone without distinction of race, ethnicity, sex, age, size, location, stage of development, or condition of dependency. State permission of elective abortion, no less than the permission of infanticide or the killing of the cognitively disabled, the elderly, or members of any other class of persons, is incompatible with the principle.

Adopted in 1868 to ensure that no group or category of human beings would be denied basic rights, the Fourteenth Amendment first defines United States citizenship by declaring that “all persons born or naturalized in the United States ... are citizens of the United States,” and provides that all citizens are entitled to the privileges and immunities of citizenship. But this Citizenship Clause simply defines which persons are citizens; it does not define “person” or say that only citizens are persons. Crucially, the Amendment then goes on to provide that “no state shall deprive *any person* of life, liberty, or property, without due process of law; nor deny to *any person* within its jurisdiction the equal protection of the laws.” These Due Process and Equal Protection guarantees apply to and protect everyone, regardless of citizenship.



# THE NEW NORTH STAR



Every branch and level of government must take steps to secure equal protection for the child in the womb. The pro-life movement and elected officials should embrace policies consistent with that framework, including:

- Acknowledging through constitutional provisions and legislation that children from the earliest embryonic stage forward are **legal and constitutional persons** entitled to the equal protection of state and local laws, and preventing states and localities from denying such protection;
- Ensuring that **fetal homicide, wrongful death, and child endangerment laws**, including the federal Unborn Victims of Violence Act, are vigorously enforced to protect all preborn children, so that preborn babies and their families can obtain justice against the criminals who harm them;
- Extending state and federal **child tax credits** to include preborn children as “qualifying children” on tax returns, ensuring that American families are able to receive deductions for all of their dependent children;
- Clarifying that **embryos in cryopreservation are not legal property** or quasi-property under state law and cannot simply be discarded and destroyed;
- Making support for equal protection a **litmus test for elected officials** and judicial nominees at every level of government;
- Ensuring that children in the womb are afforded **due process and legal representation** in judicial proceedings through the appointment of guardians ad litem in appropriate circumstances;
- Passing robust and enforcing existing **prenatal child support laws** from conception to ensure that all men take responsibility for the children they father.



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In his “House Divided” speech, Abraham Lincoln predicted that the United States could not endure “half slave and half free.... It will become all one thing or all the other.” Echoing those words more than a century later, Ronald Reagan declared that “our nation cannot continue down the path of abortion, so radically at odds with our history, our heritage, and our concepts of justice.” For that reason, he invoked the Fourteenth Amendment, saying, “the well-being and the future of our country demand that protection of the innocents must be guaranteed and that the personhood of the unborn be declared and defended *throughout our land.*”

It is true that Americans are divided on abortion after *Dobbs*. But life will triumph. The same constitutional principles that ensured equal protection for Black Americans also protect defenseless children in the womb—from New York to California and everywhere in between. It falls to us to ensure that this guarantee is enforced. That is our unified paradigm for victory, and nothing less will be acceptable.

Our North Star in the pro-life movement remains the same as ever: the end of abortion through ensuring the equal protection of the laws. The pro-life movement must direct its steps according to the existing guarantee in our Constitution that secures *equal protection for all*.

## LILA ROSE

*Founder & President  
Live Action*

## KRISTAN HAWKINS

*President  
Students for Life Action/Students for Life of America*

## PENNY NANCE

*President & CEO  
Concerned Women for America*

## JEFF BRADFORD

*President  
Human Coalition*

## SHAWN D. CARNEY

*President & CEO  
40 Days for Life*

## RYAN T. ANDERSON

*President  
Ethics and Public Policy Center*



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## **ROBERT P. GEORGE**

*McCormick Professor of Jurisprudence  
Princeton University*

## **RAMESH PONNURU**

*Editor  
National Review*

## **R. ALBERT MOHLER, JR.**

*President  
The Southern Baptist Theological Seminary*

## **RYAN BOMBERGER**

*Co-founder & Chief Creative Officer  
Radiance Foundation*

## **HADLEY ARKES**

*Founder & Director  
James Wilson Institute*

## **C.C. PECKNOLD**

*Professor of Theology  
The Catholic University of America*

## **STEVEN H. ADEN**

*Chief Legal Officer & General Counsel  
Americans United for Life*

## **MICHAEL O. KENNEY**

*President  
Pro-Life Partners Foundation*

## **PETER BREEN**

*Executive Vice President & Head of Litigation  
Thomas More Society*

## **TERRISA BUKOVINAC**

*Founder & Executive Director  
Progressive Anti-Abortion Uprising*

## **MARY SZOCH**

*Director of the Center for Human Dignity  
Family Research Council*

## **GERARD BRADLEY**

*Professor of Law  
University of Notre Dame*



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**CHARLES CAMOSY**

*Professor of Bioethics  
Creighton University School of Medicine*

**PATRINA PALMER MOSLEY**

*Founder & Principal  
PPM Consulting*

**ANDREW T. WALKER**

*Associate Professor of Ethics  
The Southern Baptist Theological Seminary*

**MISSY MARTINEZ-STONE**

*President & CEO  
Reprotection*

**JOSH CRADDOCK**

*Legal Scholar  
James Wilson Institute*

**ROBERT S. MCDONALD, M.D.**

*Surgeon  
The Saint Gianna Molla Guild of Northeast Wisconsin*

**LAUREN MUZYKA**

*President & CEO  
Sidewalk Advocates for Life*

**JOSH HAMMER**

*Senior editor-at-large  
Newsweek*

**ADELINE A. ALLEN**

*Associate Professor  
Trinity Law School*

**BRETT ATTEBERY**

*Chief Executive Officer  
Heroic Media*

**RON ROBINSON**

*President Emeritus  
Young America's Foundation*

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