

Abortion Restrictions Are *Good* for Black Women

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Abstract: Abortion restrictions are particularly good for black women—at least in the United States. This claim will likely strike many as outlandish. And numerous commentaries on abortion restrictions have suggested otherwise: many authors have lamented the effects of abortion restrictions on women, and black women in particular—these restrictions are bad for them, these authors say. However, abortion restrictions are clearly good for black women. This is because if someone is prevented from performing a morally wrong action, it's good *for her*. For example, it's good *for Sarah* if she's prevented from driving home drunk. However, since abortion is morally wrong, it follows that it's good *for women* when they are prevented from getting an abortion. And since black women get abortions at disproportionately high rates, abortion restrictions are good *in particular* for black women. Indeed, this is an example of a positive effect of *intersectionality*.

Keywords: abortion; Roe v. Wade; moral luck; abortion restrictions

1. Introduction

Roe has fallen. After gestating 50 years in the United States, it was terminated by Dobbs. Proponents of abortion rights say that Roe should not have been terminated—it should have been brought to term and permitted to live on. Opponents of abortion rights say that Roe wreaked havoc on the United States long enough, and was rightly terminated because it was a threat to the life of unborn children.¹ With Roe's fall, decisions about whether (and when) abortion is legally permissible have been returned to the states: each state may enact its own laws about abortion. For some states (e.g. New York), this means that women will continue to have the same legal rights to abortion they already had—nothing will change for them. In other states (e.g. Texas), women will—to a large degree—lose legal rights to abortion they previously had. As such, there has been much discussion about abortion restrictions and the effects that they will have on

¹ My argument about abortion restrictions being good for women can be understood to apply generally, not restricted to any country. But my argument that abortion restrictions are particularly good for black women should be understood to apply to black women in the United States. This is because the data I cite about abortion rates among black women is from the United States. Perhaps my point holds in other countries. But it's not something I have data on. And those who have the data can tease out the implications easily enough.

women. Indeed, many have claimed that abortion restrictions are particularly bad for black women (e.g. Räsänen, Gothreau, and Lippert-Rasmussen 2022). In this article, I challenge this narrative: I show that abortion restrictions are *good* for women, and in particular black women. (In fact, if we're interested in *equity*, we should be especially concerned with this, since black women stand to be benefited most from abortion restrictions, and they stand to be hurt most by a lack of abortion restrictions.) This is because being prevented from performing a morally wrong act is *good* for someone. And since abortion is morally wrong, abortion restrictions are good for women, and in particular for black women. Of course, it's contentious whether abortion is morally wrong. Nevertheless, this shows that whether abortion restrictions are bad for women *depends* on the ethics of abortion. And so we can't—as some authors have tried to do—side-step this issue: to make claims about whether abortion restrictions are good or bad for women in general and black women in particular, we need to know whether abortion is morally wrong.

This article is structured as follows: in Section 2, I talk about the distribution of abortions among women in the United States and some recent commentary on this distribution. In Section 3, I talk about moral luck, and show that it's good to be prevented from doing something morally wrong. In Section 4, I argue that since abortion is morally wrong, abortion restrictions are good for women, and in particular black women—it prevents them from performing a morally wrong action. Finally, in Section 5, I consider an objection to my argument, which claims that what I've argued is only correct if abortion is morally wrong: if abortion isn't morally wrong—the objection goes—then abortion restrictions aren't good for women, black or otherwise.

2. Abortion Restrictions Disproportionately Affect Black Women

Abortion is relatively commonplace in the United States. A recent study suggests that nearly one in four women in the United States will have an abortion before turning 45 (Jones and Jerman 2017). While white women in the United States² account for the largest number of abortions, some studies have shown that black women get abortions at higher rates than all other groups of women. For example, Jones and Kavanaugh say that:

[r]egardless of poverty group, African American women had the highest abortion rates, followed by Hispanic women and then white women... These patterns suggest that poverty alone does not explain the higher abortion rates among minority women. (Jones and Kavanaugh 2011: 1364)

And Watson, summarizing some recent data, says that

² Hereafter, I will forgo this qualification. All such references and claims should be understood to be about women in the United States.

The majority (62%) of abortion patients are nonwhite. Black and Hispanic women are overrepresented (53% of US abortion patients versus 32% of the U.S. population) and white women are underrepresented (39% of US abortion patients versus 60% of the US population). (Watson 2022: 2)

Indeed, Watson goes on to claim that because black women are disproportionately likely to get abortions, we need to reframe our discussions about the ethics of abortion to take this into account: since black women get abortions at higher rates than non-black women, abortion restrictions are worse for them. She says:

This governmental policy of forced childbearing and forced delay of medical care for the poor also has a racially discriminatory impact, since 31% of Black women and 27% of Hispanic women aged 15–44 were enrolled in Medicaid, compared with 16% of white women in 2018. (Watson 2022: 3)

Moreover, *Finer et al* (2005) and Torres and Forrest (1988) show that around 70% of women cite financial reasons (broadly understood) for having an abortion. Insofar as black women are more likely to live in poverty, this suggests that abortion is going to disproportionately affect black women.

Lamentations about the effects of the fall of Roe on black women haven't been limited to academics. For example, news pieces written by journalists such as Alfonseca (2022), Carmichael (2022), and Rose (2022) all suggest that black women will be uniquely hurt by abortion restrictions. Moreover, Jannette McCarthy Wallace—general council for the National Association for the Advancement of Colored People—says that

There is no denying the fact that this is a direct attack on all women, and [black] women stand to be disproportionately impacted by the court's egregious assault on basic human rights. (Quoted in Rose 2022.)

So, many hold that abortion restrictions are particularly bad for black women. Curiously, whether abortion is morally wrong isn't discussed at all: it seems to be just assumed that it's permissible. However, I will show below that whether abortion restrictions are bad for black women (or women in general) depends on whether abortion is morally wrong. And so we can't afford to ignore the ethics of abortion—the ethics of abortion must be settled prior to discussing the ethics of abortion restrictions.

3. Moral Luck and Drunk Driving

In this section, I'm going to take a brief detour into the subject of moral luck, and in particular *circumstantial* moral luck. Moral luck, in general, refers to the phenomena in which a person finds herself to be more or less blameworthy or praiseworthy for an action due to factors beyond her control.³ For example, consider the following case:

River Rescue: When walking down a river, Sally stumbled across a drowning child and saved her (the child). Sarah was also walking down the river, but she was one minute behind Sally. Had she come across the child instead of Sally, she would have rescued her (the child).⁴

This is a case of circumstantial moral luck: circumstantial factors beyond the control of each subject played a serious role in determining the amount of praise each subject merited: Sally deserves more praise than Sarah because she actually saved the child—something Sarah would have done had Sally not been there first. But the only reason Sally was able to save the child and not Sarah was that Sally just so happened to be walking ahead of Sarah by one minute—she just so happened to find herself in the right circumstance. However, this doesn't seem to be the kind of thing that can merit Sally being more praiseworthy than Sarah: that she just so happened to be one minute ahead on her walk doesn't seem like the kind of fact relevant to her praiseworthiness.

Or, consider a case of blame:

Drunk Driving: Samantha drove to the bar to have a few drinks. She ended up drinking more than she expected, and was not able to drive safely home. However, she tried to drive home anyway. On her drive home, she struck and killed a pedestrian. Karen also drove to the bar to have a few drinks, also ended up drinking more than she expected, and was also not able to drive safely home. However, Karen's friend, Karrissa, was able to steal Karen's keys from her and keep them from her all night. Because of this, Karen was forced to take a cab home. Had Karen's friend not taken her keys, she would have had the same result as Samantha: she would have struck and killed a pedestrian on her drive home.

In Drunk Driving, it looks like Samantha is more blameworthy than Karen *even though* the only reason Karen didn't kill anyone is because of circumstantial factors outside of her control—her friend happened to be at the bar and was able to steal her keys from her. Explaining how these factors outside of one's control can contribute to one deserving blame or meriting praise is the problem of moral luck.

³ For the classic discussion of moral luck, see Nagel (1979).

⁴ This example is borrowed (and only very lightly modified) from Swenson (2022).

Fortunately, we need not solve this problem here. Instead, we need only take notice of a phenomena in the neighborhood of moral luck that is illustrated by Drunk Driving: there's an obvious way in which Karen was *better off* because she was prevented from driving home drunk: she was prevented from performing a morally wrong action (driving drunk) that would have had severe consequences (i.e. she would have killed another person). But driving drunk is wrong *even if* it doesn't result in the death of another person: it's wrong to drive drunk *even if* you don't hurt anything or anyone. Furthermore, it's good for the would-be drunk driver to be prevented from driving drunk.

Note that my point above isn't wed to one's views on moral luck. Regardless of one's views on the problem of moral luck, it should be clear that in Drunk Driving, it was good *for Karen* that she was prevented from driving drunk.⁵ And it would have been good for her even if she would have driven home without hurting anyone. Indeed, this point can be generalized: it's good *for someone* to be prevented from performing a morally wrong action. For example, it's good *for you* to be prevented from murdering someone—even if you would have gotten away with it. It's good *for you* to be prevented from stealing another person's life savings. It's good *for you* to be prevented from raping another person. And so on. Moreover, these will be good *for you* even if these goods are realized due to state legislation. For example, suppose that a law is enacted requiring bartenders to retain the keys of those who are (clearly) too drunk to drive, and that the bartender is, by law, prevented from giving drunk persons their keys. It's still good for the would-be drunk driver to be prevented from driving drunk. Or, suppose (as is actually the case) that there are laws against killing others. In a very real sense, this coerces some from killing others—even if they think it's the best option for them. For example, Samantha might think it makes sense to kill Sarah since that will result in her no longer owing Sarah a large sum of money. But laws against killing coerce Samantha into not killing Sarah—they *prevent* Samantha from killing Sarah—and this has the result that Samantha is, in a sense, morally lucky: she's lucky that there are such laws in place that prevent her from committing a morally wrong action.

The upshot of this section, then, is this: it's good for the would-be perpetrator of a morally wrong action to be prevented from performing said morally wrong action. Indeed, we can see that the worse the action is that one is prevented from performing, the better it is *for the would-be perpetrator*. Think about it this way: it's good for Samantha to be prevented from stealing \$20 from her friend, but it's *even better* for Samantha to be prevented from breaking her friend's leg, and it's still better for Samantha if she's prevented from killing her friend.

⁵ Of course, some consequentialists might balk at this, holding that Karen isn't actually better off. Those consequentialists won't buy my argument here.

4. Abortion Restrictions Are Particularly Good for Black Women

In Section 2, I noted that black women get abortions at higher rates than other groups of women, and that many have claimed that abortion restrictions are particularly bad because of this: since black women get abortions at a higher rate than other groups of women, abortion restrictions disproportionately affect them and, therefore, these restrictions are particularly bad for black women. In Section 3, I briefly discussed the phenomena of moral luck, and noted that it's good to be prevented from doing something that's morally wrong. I will show in this section that these two facts—that it's good to be prevented from doing something morally wrong and that black women have abortion at higher rates than other groups of women—have the result that abortion restrictions are good for women, and in particular black women.

Why should we think that abortion restrictions are good for women, and in particular for black women? Because they prevent women from getting abortions, which means they prevent women from committing a morally wrong act. However, as we saw above, being prevented from committing a morally wrong act is good *for* the would-be perpetrator. And this means that abortion restrictions are good *for women*. Furthermore, this means that abortion restrictions are particularly good *for black women*. Why should we think abortion restrictions are particularly good for black women? We should think this for roughly the same reason that abortion restrictions are sometimes claimed to be particularly bad for black women: if an action negatively affects one group of people in a disproportionate way, it's said to be especially bad *for that group*. So, by the same token, if an action *positively* affects one group of people in a disproportionate way, it's especially good *for that group*. And this means that abortion restrictions are particularly good for black women: since abortion is wrong and abortion restrictions disproportionately affect black women, they're particularly good for black women. So, the intersectionality of black women is paying dividends in this case: it results in them benefiting disproportionately from abortion restrictions. Indeed, this can be seen as addressing an inequity: black women have been subject to unjust discrimination, so abortion restrictions address this inequity by disproportionately benefitting black women.

Another point in favor of this is related to the eugenic history of the birth control and abortion movement within the United States. It's no secret that Margaret Sanger, founder of the largest abortion provider in the United States (Planned Parenthood), was a proponent of birth control to limit the reproduction of the poor (among others) (Williams 2016),⁶ that she was a eugenicist,⁷ and that some important voices in the early abortion and birth control movement were motivated by worries about overpopulation (Williamson 2016: 108-112). Given that black women are responsible for a disproportionate number of abortions in America, one could be forgiven for worrying that black women have been further victimized by these eugenic and overpopulation motivations. It might be thought, then, that abortion restrictions are good for

⁶ Though, as Williamson (2016: 51) notes, Sanger had said that abortion is undesirable.

⁷ Indeed, Planned Parenthood (n.d.) states that Sanger aligned herself with white supremacists.

women, and in particular black women, since it pushes back on this trend that appears to have targeted them.

So, being prevented from getting an abortion is good. Indeed, it's *extremely good* to be prevented from getting an abortion: since abortion involves unjustly killing a fetus, being prevented from getting an abortion is to be prevented from doing one of the worst things one can do. And this means that it's *extremely good* to be prevented from getting an abortion: it's akin to being prevented from driving drunk and killing someone. Indeed, while there may be some downsides that come from not getting an abortion (e.g. financial costs), the good that comes from being prevented from getting an abortion swamps any (or, at least, typical) goods that would come about if one gets an abortion.⁸ Think about it this way: suppose that if I were to drive drunk, I would crash into a car driven by someone I owe \$10,000, and that person would be killed on impact. There's a sense in which being prevented from driving drunk is bad for me: it means that I remain \$10,000 in debt. However, it's far better *for me* to be prevented from killing someone than it is to be out of debt: it's far better for me to not kill someone than it is for me to not owe someone \$10,000. Similarly, it may be true that if a woman were to get an abortion she would avoid incurring a significant financial burden (among other things). However, it's far better for a woman to not unjustly kill someone than it is for her to not incur a (significant) financial burden. And so the good women receive from being prevented from getting an abortion swamps other goods that could be obtained by getting an abortions—at least typically.

5. Objection: What if Abortion Isn't Wrong?

The natural objection that will doubtless have struck the reader at this point is this: “You’ve not argued that abortion is wrong—you’ve merely assumed it is. And your entire case hinges on this point: if abortion isn’t morally wrong, then abortion restrictions won’t be good for women, let alone particularly good for black women.”

My response to this accusation? Guilty as charged. I have indeed merely assumed that abortion is morally wrong, and have gone from there. But I’ve done this *intentionally*: as seen above in Section 2, it is commonplace—though not universal—for authors to claim that abortion restrictions are bad for women, and in particular for black women. However, these authors don’t consider whether abortion is morally wrong—they just assume it’s permissible. I’ve intentionally mirrored their style here. The purpose of this is twofold. First, while it’s commonplace to say that abortion restrictions are bad for women, and particularly bad for black women, no one has noticed the corollary that holds if abortion is morally wrong. In other words, no one has noticed the important fact that if abortion is morally wrong, then abortion restrictions are good for women, and in particular black women. I take this result to be extremely difficult to contest: if

⁸ It’s also worth noting that the vast majority of women (96%) denied abortions don’t regret being denied an abortion (Rocca *et al* 2021), meaning that the financial downside of having a child isn’t viewed by mothers to outweigh the upside.

abortion is wrong in the way that pro-life folk typically argue (e.g, Blanchette 2021, Hendricks 2019 and 2022, Hershenov 2018, Hershenov and Hershenov 2017, Kaczor 2014, Marquis 1989, Miller forthcoming, and Pruss 2011),⁹ then *of course* it's good for one to be prevented from having an abortion. And second, this discussion illustrates that we have to consider the ethics of abortion *prior* to making judgments about whether abortion restrictions are good or bad for women or for black women, which means that the above pieces lamenting the effects of abortion restrictions have at worst put the cart before the horse (because they mistakenly consider the ethics of abortion *restrictions* prior to considering the ethics of abortion) or at best are guilty of preaching to the choir (because they will only cut ice for those who already accept that abortion is morally permissible). So, before lamenting the impact of abortion restrictions on women, we need to first consider the ethics of abortion—there's no side-stepping this issue.

6. Conclusion

I've shown that abortion restrictions are good for women, and good for black women in particular—or, at least, this is the case if abortion is morally wrong. And so we've got a case in which the intersectionality of black women is paying dividends. Briefly, the reasoning for this is: if an action negatively affects one group of people in a disproportionate way, it's said to be especially bad for that group. And so by the same token, if an action positively affects one group of people in a disproportionate way, it's especially good for that group. And this means that abortion restrictions are particularly good for black women: since abortion is wrong and abortion restrictions disproportionately affect black women, they're particularly good for black women. The upshot of this is that we cannot side-step debates about the ethics of abortion when discussing whether abortion restrictions are good or bad for women: we must *start* with the ethics of abortion before considering the ethics of abortion restrictions. And as such, when assessing ethics of the abortion restrictions that arise in response to the fall of Roe, we need to first consider the ethics of abortion.

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