

# The Pregnancy Rescue Case: a reply to Hendricks

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## Abstract

In “The Pregnancy Rescue Case: why abortion is immoral”, Hendricks presents The Pregnancy Rescue Case. In this reply I argue that even if it would be better (i.e. less bad) for the abortion to be prevented in The Pregnancy Rescue Case, that does not mean that typical abortions are impermissible. I also argue that there is a possible explanation, consistent with the pro-choice view and empirically testable, as to why people would think it better for the abortion to be prevented in The Pregnancy Rescue Case.

## 15 Introduction

Hendricks' argument can be summarised as follows:[1]

1. It would be better for the abortion to be prevented in The Pregnancy Rescue Case.
2. If it would be better for the abortion to be prevented in The Pregnancy Rescue Case, typical abortions are impermissible.

Typical abortions are impermissible.

I shall follow Hendricks in calling the view that typical abortions are permissible the pro-choice view.[1] In this reply I argue that the second premise of Hendricks' argument is false. I also argue that there is a possible explanation as to why people would think that the first premise is true which is consistent with the pro-choice view and can be empirically tested.

## The second premise is false

Let us consider The Pregnancy Rescue Case.[1]

### The Pregnancy Rescue Case

Sarah and Judy are in a hospital in a country in which: it is illegal for a person to have an abortion on or after the 100<sup>th</sup> day of pregnancy unless doing so would save their life; and it is illegal for a person to have an abortion on a day if they have already had another operation that day. Sarah is in a coma and will never wake up. Prior to falling into a coma, she became pregnant and did not know that she was pregnant. It is the 99<sup>th</sup> day of her pregnancy. It is also the 99<sup>th</sup> day of Judy's pregnancy. Judy is currently under anaesthesia because she knew that she was pregnant and wanted an abortion. For some reason, a doctor will perform an abortion on Sarah if it is not prevented and another doctor will perform liposuction on Judy if it is not prevented. The abortion or the liposuction can be prevented, but not both.

Assuming that the badness of the liposuction being prevented is not equal to the badness of the abortion being prevented, would it be better (i.e. less bad) for the abortion to be prevented or would it be better for the liposuction to be prevented? Hendricks thinks that it would be better for the abortion to be prevented.[1] This is his first premise:

1. It would be better for the abortion to be prevented in The Pregnancy Rescue Case.

I won't dispute its truth. But Hendricks' second premise:

2. If it would be better for the abortion to be prevented in The Pregnancy Rescue Case, typical abortions are impermissible.

is false. Typical abortions do not involve pregnant people being subject to operations they did not consent to and typical abortions do not involve the possibility of what one pregnant person would want regarding their own pregnancy coming into conflict with what another pregnant person wanted regarding their own pregnancy. These are ethically relevant dissimilarities between The Pregnancy Rescue Case and the case of a typical abortion which make the conditional premise false.

## An explanation consistent with the pro-choice view

Not only is the pro-choice view consistent with the truth of the first premise, on account of the ethically relevant dissimilarities between The Pregnancy Rescue Case and the case of a typical abortion, there is also a possible explanation, consistent with the pro-choice view, as to why people would think that it would be better (i.e. less bad) for the abortion to be prevented in The Pregnancy Rescue Case—an explanation that can be empirically tested.

Suppose that people think that in general it is much worse for an abortion to be carried out on a pregnant person who would, were they to be aware of their pregnancy, want not to have an abortion than for an abortion not to be carried out on a pregnant person who knew that they were pregnant and wanted an abortion. It should be easy to see how someone could accept that the expected badness of the abortion being prevented in The Pregnancy Rescue Case would be lower than the expected badness of the liposuction being prevented. They could think: it is possible that Sarah would want not to have an abortion, were she, *per impossibile*, to know of her pregnancy; and if she would want not to have an abortion and an abortion were to be carried out on her, this would be extremely bad, bad enough to make the expected badness of the abortion being prevented lower than the expected badness of the liposuction being prevented.

Can we test to see how many people (if any) would think that the possibility that Sarah would want not to have an abortion is the decisive factor making it better for the abortion to be prevented in The Pregnancy Rescue Case? Yes. Here are two cases similar to The Pregnancy Rescue Case:

### Variant 1

... Sarah is in a coma and will never wake up. *Prior to falling into a coma, she knew that she was pregnant and knew that she would fall into a coma but she did not know that she would fall into a coma as quickly as she did. She wanted an abortion. She is in hospital because she is in a coma not because she wanted an abortion.* It is the 99<sup>th</sup> day of her pregnancy. It is also the 99<sup>th</sup> day of Judy's pregnancy. ...

**Variant 2**

95 ... Sarah is in a coma and will never wake up. *Prior to falling into a coma, she knew that she was pregnant and knew that she would fall into a coma but she did not know that she would fall into a coma as quickly as she did. She wondered whether she wanted an abortion. She did not want to have an abortion but she did not want not to have an abortion either (she was indifferent to her pregnancy). She is in hospital because she is in a coma. It is the*  
 100 *99<sup>th</sup> day of her pregnancy. It is also the 99<sup>th</sup> day of Judy's pregnancy. ...*

Take a group of  $n$  people. Let  $x$  be the number of people who think that it would be better for the abortion to be prevented in The Pregnancy Rescue Case. Let  $y$  be the number of people who think that it would be better for the abortion to be prevented in Variant 1. Let  $z$  be the number of people  
 105 who think that it would be better for the abortion to be prevented in Variant 2. Assume that all of the  $(n - x)$  people who thought that it would not be better for the abortion to be prevented in The Pregnancy Rescue Case also thought that it would not be better for the abortion to be prevented in Variant 1 and that it would not be better for the abortion to be prevented in Variant 2. Assume also that no one thinks of any of the cases that in that case Sarah would want to have an abortion and  
 110 want not to have an abortion (i.e. assume that no one thinks of any of the cases that in that case Sarah would have contradictory wants). Then we have the following:

$(x - y)$  = the number of people who think that the possibility that Sarah would not want to have an abortion or the possibility that Sarah would want not to have an abortion is the  
 115 decisive factor making it better for the abortion to be prevented in The Pregnancy Rescue Case.

$(z - y)$  = the number of people who think that the possibility that Sarah would not want to have an abortion is the decisive factor making it better for the abortion to be prevented in  
 120 The Pregnancy Rescue Case.

$((x - y) - (z - y))$  = the number of people who think that the possibility that Sarah would want not to have an abortion is the decisive factor making it better for the abortion to be  
 125 prevented in The Pregnancy Rescue Case.

## Conclusion

130 Recall my summary of Hendricks' argument:

1. It would be better for the abortion to be prevented in The Pregnancy Rescue Case.
2. If it would be better for the abortion to be prevented in The Pregnancy Rescue Case, typical abortions are impermissible.

135 Typical abortions are impermissible.

In this reply I argued: that there are ethically relevant dissimilarities between The Pregnancy Rescue Case and the case of a typical abortion which make the second premise false; and that there is a  
 140 possible explanation as to why people would think that the first premise is true which is consistent with the pro-choice view and can be empirically tested.

## References

- 145 [1] Hendricks, Perry (2023) “The Pregnancy Rescue Case: Why Abortion is Immoral”. *Journal of Medical Ethics*. 1–3. <https://jme.bmj.com/content/early/2023/06/28/jme-2023-109107>.