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REPRODUCTIVE JUSTICE: The North Star in a World Beyond *Roe v. Wade* and the Right to Choose

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“You need to be on birth control and practice safe sex because you won’t have the heart to have an abortion if you become pregnant, I know you.” These were the words my foster mother uttered to me after I expressed my disdain for getting the Depo-Provera birth control shot while we were getting ready for my appointment.

I did not realize how stigma laden and utterly abusive that single statement was until I was in the process of getting my first abortion three years later, at nineteen years old. The most shocking element of this statement was not that she assumed getting an abortion would be a difficult decision for me—although at the time, it was merely a hypothetical. At fifteen, I had run away with nothing but the clothes on my back and schoolwork in my backpack, fleeing years of mental, verbal, and physical abuse. Surely, I would be capable and sound enough to make a decision as impactful to my life as having or not having an abortion. But I was more stunned that she,

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as someone who had chosen abortion as an option for herself in the past, would have such a harsh attitude towards it.

Her statement was a reflection of a multitude of things: her feelings towards her own personal abortion experience that were shaped by stigma and anti-abortion ideals, the framing of abortion as the final frontier and an option to avoid at all costs, and the reproductive abuse experienced by many young Black, brown and indigenous adolescents at disproportionate rates. I now frequently cite this encounter as an example of the ways in which stigma and reproductive abuse have not only shown up, but directly impacted my life as a Black and queer femme.

This encounter was not the first time in my life that such dynamics had appeared. I received my first dose of the Depo-Provera shot when I was fifteen years old, per the forceful orders of the biological mother I would run away from just a few months later. It did not take long for abuses and coercive practices like those that I had fled in my home to reintroduce themselves while I was in the foster care system. When I refused to go to my mandatory doctor's visits to receive the next dose after I had experienced adverse effects for months, the staff at the group home threatened to write me up for insubordination and refusal of treatment. Getting written up could add legitimacy to the false claims made against me by my biological mother, in which I was characterized as "defiant." It could determine whether or not I would have to return to the custody of my abusive parent.

Yet, the punishing of birthing people for exercising bodily autonomy is not a rare instance.¹ Many people, myself included, would argue that it is actually a part of American tradition.² When examining the history and inception of this country, one will find that restricting and barring access to reproductive care and freedom was one of the original and primary tactics slave owners used to control enslaved peoples and their descendants.³ Many enslaved

1. See, e.g., Diana J. Schaub, *Book Review*, 4 AM. POL. THOUGHT 332 (2015) (reviewing JUSTIN BUCKLEY DYER, *SLAVERY, ABORTION, AND THE POLITICS OF CONSTITUTIONAL MEANING* (2013)).

2. See, e.g., Michele Goodwin, *The Racist History of Abortion and Midwifery Bans*, ACLU (July 1, 2020), <https://www.aclu.org/news/racial-justice/the-racist-history-of-abortion-and-midwifery-bans> [<https://perma.cc/9KHR-TR46>]; Cynthia Prather, Taleria R. Fuller, William L. Jeffries, IV, Khiya J. Marshall, A. Vyann Howell, Angela Belyue-Umole & Winifred King, *Racism, African American Women, and Their Sexual and Reproductive Health: A Review of Historical and Contemporary Evidence and Implications for Health Equity*, 2 HEALTH EQUITY 249 (2018).

3. See generally JENNIFER L. MORGAN, *LABORING WOMEN: REPRODUCTION AND GENDER IN NEW WORLD SLAVERY* (2004).

women were sexually exploited and forced to give birth to children who would in turn be ripped from their arms at birth and never seen again, as they too would live a life in bondage. The medicalization of pregnancy itself has deep roots in racism and misogynoir;⁴ the banning and criminalization of midwifery in the United States sought to frame midwives (many of whom were Black women)—the primary reproductive health specialists and providers in the country at the time—as uneducated, uncivilized, and unsanitary, thus making their work obsolete.⁵ The foundations of gynecology were rooted in exploitation and orchestrated attacks on the livelihood and practices of Black midwives via slavery, political smear campaigns, and segregation laws.⁶

The reality that the reproductive fates of enslaved women were determined by those who owned them sounds eerily similar to the laws and policies restricting abortion access being crafted, approved, and enforced by wealthy, white men with political power in modern day. This similarity isn't a coincidence; it is a prime example of white supremacy adapting itself to contemporary society. Abortion bans are racist, misogynistic acts of class warfare. Issues such as access to safe and affordable birth control, accurate and comprehensive sex education, paid family leave, workplace discrimination, and maternal fatality rates are also amongst the list of things anti-abortion advocates are staunchly against. This should make it more evident that abortion bans and restrictions are not at all about protecting and saving women's lives, as some anti-abortion advocates claim, but are about controlling the lives and bodies of Black, brown, indigenous, and poor people by deciding their reproductive fates. I often cite the words of Henry Hyde, creator of the Hyde Amendment, as an explicit confirmation of this fact: "I would certainly like to prevent, if I could legally, anybody having an abortion, a rich woman, a middle class woman, or a poor woman. Unfortunately, the only vehicle available is the . . . Medicaid bill."⁷

4. Misogynoir is a term used to refer to the particular type of sexualized racism, or racialized sexism, that Black women and femmes experience. See Eliza Anyangwe, *Misogynoir: Where Racism and Sexism Meet*, GUARDIAN (Oct. 5, 2015, 2:00 PM), <https://www.theguardian.com/lifeandstyle/2015/oct/05/what-is-misogynoir> [<https://perma.cc/8UEG-7HFY>].

5. See Melissa Murray, *Race-ing Roe: Reproductive Justice, Racial Justice, and the Battle for Roe v. Wade*, 134 HARV. L. REV. 2025, 2035 (2021); see also Goodwin, *supra* note 2.

6. See, e.g., DOROTHY ROBERTS, *KILLING THE BLACK BODY* 175–76 (2014).

7. The Hyde Amendment prohibits the use of federal funds, such as Medicaid funding, for abortion services. See Marlene Gerber Fried, *The Hyde Amendment: 30 Years of Violating Women's Rights*, CTR. FOR AM. PROGRESS (Oct. 6, 2006), <https://www.americanprogress.org/article/>

Sexual and reproductive health policies in the United States have a longstanding history of targeting and impacting Black, brown, and indigenous women.⁸ Federal and state funding for family planning services continues to decline or be rendered non-existent⁹ in the forty-nine years since *Roe v. Wade*,¹⁰ making it nearly impossible for low-income people to receive abortion care.¹¹

Oddly enough, bringing life into the world is one of the deadliest journeys a Black woman can embark on. Statistics show that Black women are more likely to die due to pregnancy complications in comparison to their white female counterparts.¹² The anti-abortion narrative of outlawing abortion as an honorable and lifesaving endeavor cannot coexist with these telling statistics and data.

In March of 2020 I found myself facing the decision of whether to have an abortion. The Ohio Attorney General had just ordered abortion providers to stop performing “nonessential” abortions, citing federal guidelines that were aimed towards conserving medical equipment in light of the COVID-19 pandemic and state lockdowns. My uterus felt heavy and my period was late by just two days. I did not have any means of transportation at the time, so I had to Uber to a store near me to purchase a pregnancy test. When I got home, I hurried to the bathroom, still fully dressed in all of my winter attire, and took the test. The test came out positive. Before I could even get up, I texted a friend and known community organizer in the reproductive justice movement who worked with the only abortion fund in the state of Ohio: “Hey, I’m pregnant and don’t want to be. Not sure what to do.” She assured me that I had come to the right person and asked me what I needed at that moment. Purchasing the Uber to and from the store in addition to the pregnancy test had already forced me to spend the money I had set aside for my bills and groceries that month. As a full-time student, a worker who was let go weeks before my state got shut down because of the pandemic, and a Medicaid recipient, I knew that I

the-hyde-amendment-30-years-of-violating-womens-rights [https://perma.cc/TZ4C-T8C6].

8. See Murray, *supra* note 5.

9. *State Family Planning Funding Restrictions*, GUTTMACHER INST. (May 1, 2022), <https://www.guttmacher.org/print/state-policy/explore/state-family-planning-funding-restrictions> [https://perma.cc/2QMB-2D6G].

10. 410 U.S. 113 (1973).

11. Heather D. Boonstra, *Abortion in the Lives of Women Struggling Financially: Why Insurance Coverage Matters*, 19 GUTTMACHER POL’Y REV. 46, 47 (2016).

12. See, e.g., Deirdre Cooper Owens & Sharla M. Fett, *Black Maternal and Infant Health: Historical Legacies of Slavery*, 109 AM. J. PUB. HEALTH 1342, 1344 (2019).

did not have the financial resources to pay for an abortion. In fact, the cost of a first-trimester abortion in the state of Ohio was more than one month of rent for the apartment I was living in.¹³ Luckily, I was able to receive financial assistance from the abortion fund.

I walked past a large group of white, unmasked protestors at the clinic as they were being shielded by police, just days after the state of Ohio was shut down due to the COVID-19 pandemic. The protestors shouted something along the lines of, “Why are you killing your Black baby? This is Black genocide!” Then, as I waited hours in the abortion clinic, I was subjected to back-to-back news coverage of the murders of Ahmaud Arbery and Breonna Taylor. I thought to myself about the real murder and genocide that was happening, and how the same system was legitimizing the passing of abortion restrictions, the recorded and viral execution of a Black man in the name of vigilantism, and the murder of a Black woman in her home by the police—namely, the system of white supremacy. The right to choose to become a parent or not to become a parent is a fundamental right. Discouraging and prohibiting me from doing so is an act of white supremacist violence.

I currently live in California, a state that has been crowned the nation’s leading champion for reproductive freedom by Governor Gavin Newsom¹⁴ in the aftermath of Texas’s Senate Bill 8¹⁵ and Mississippi’s challenge to *Roe v. Wade* in the U.S. Supreme Court, which aims to ban abortion at fifteen weeks.¹⁶ This case would essentially lead to over half of the states in the country following Mississippi’s lead and California would serve as a “destination state” for people seeking out of state abortions. While I believe that this claim

13. The average cost of an abortion ranges between \$650 and \$1400 in the state of Ohio, while the average cost of rent for a one-bedroom unit in Franklin County, where Columbus is located, was \$827 in 2021. See *Ohio Fair Market Rent for 2021*, RENTDATA.ORG, <https://www.rentdata.org/states/ohio/2021> [<https://perma.cc/TEQ6-P2NZ>] (last visited Apr. 18, 2022); *Abortion in Columbus, OH*, PLANNED PARENTHOOD, <https://www.plannedparenthood.org/health-center/ohio/columbus/43213/east-columbus-surgical-center-2335-91230/abortion> [<https://perma.cc/B7NN-LQ8M>] (last visited Apr. 18, 2022).

14. Li Cohen, *Governor Gavin Newsom Declares California a “Reproductive Freedom State” With New Legislation*, CBS NEWS (Sept. 23, 2021, 7:39 AM), <https://www.cbsnews.com/news/gavin-newsom-california-reproductive-freedom-state-legislation> [<https://perma.cc/9SQO-8RXL>].

15. *What You Need to Know About Texas’ New Abortion Ban Effective Sept. 1, 2021 (SB 8)*, PLANNED PARENTHOOD, <https://www.plannedparenthood.org/planned-parenthood-greater-texas/senate-bill-8> [<https://perma.cc/XWJ8-3ZWA>] (last visited Apr. 18, 2022).

16. *Dobbs v. Jackson Women’s Health Organization*, CTR. FOR REPROD. RTS., <https://reproductiverights.org/case/scotus-mississippi-abortion-ban> [<https://perma.cc/9JYZ-RK84>] (last visited Apr. 7, 2022).

is aligned with the actuality of the state of reproductive freedom compared to other states with much harsher and intense restrictions, I also believe there are factors such as cost-sharing, insurance coverage barriers, and lack of abortion education that make this an incomplete representation.

My second abortion, which I had in California, was not much like my first one, though some barriers were still present. Just like the first time, I found out that I was pregnant around the five-to-six-week mark. This time around, I had difficulty finding a clinic that accepted my insurance and covered my abortion. When I was finally able to book and attend an appointment at a clinic, the doctor informed me during my ultrasound that the fetus could not be seen at the moment. The doctor suggested that I could be very early on in the pregnancy, in which case I could return the following week for another ultrasound to determine the age of gestation. Otherwise, the doctor said, I was carrying an ectopic pregnancy and, in that case, getting an abortion would be my only option because my life quite literally depended on it. I returned to my appointment the following week and it turned out that I was merely just too early on in the pregnancy for the fetus to appear on the sonogram, and I was able to get the medication for the abortion that I wanted. Abortion bans and restrictions operate under a one-size fits all model when in actuality the spectrum of abortion seekers is vast and more expansive. Both of my abortion experiences reaffirmed my belief that abortion is essential, no matter the reason!

I came to this realization in the aftermath of my discovery of reproductive justice, a framework created by Black women and femmes to address the misogynoir they experienced at the hands of their white female counterparts in the reproductive rights movement.¹⁷ Reproductive justice is defined by the SisterSong Women of Color Collective as “the human right to maintain personal bodily autonomy, have children, not have children, and parent the children we have in safe and sustainable communities.”¹⁸ The theory also brought me to the realization that the only path to inclusive, comprehensive, and accessible abortion care is organizing through the lens and framework of reproductive justice. This Black feminist framework focuses almost primarily on movement building and addressing how the intersections between issues of race, class,

17. See generally LORETTA J. ROSS, *THE COLOR OF CHOICE: WHITE SUPREMACY AND REPRODUCTIVE JUSTICE* 53–65 (2006).

18. *Reproductive Justice*, SISTERSONG, <https://www.sistersong.net/reproductive-justice> [https://perma.cc/JH3C-63YW] (last visited Apr. 18, 2022).

sexuality, and gender play a vital role in disrupting and determining the reproductive fates of many.

As someone who has had multiple abortions, I am able to see the value those decisions have had in my life. I am also able to see how abortion access, or lack thereof, is at the heart of my experience, and being forced to carry unwanted, unplanned, and even unsafe pregnancies to term could have changed the entire trajectory of my life. I can't help but wonder how much would shift if we put the emphasis on its essentiality. Contrary to the way my foster mother framed it, abortion is a lifesaving, life changing, and life affirming option. I wasn't saddened about my abortions; I was empowered by my decisions. As a Black femme who is also queer and who spent my later teenage years in the foster care system, I can say that my abortions were some of the first and only times in my life that I felt like an autonomous being. It's an option that should be available to whomever, whenever, regardless of their reasons or feelings around it. It is not solely an option explored by an immoral and irresponsible few. Abortion should be an option that is there for anyone who needs it and wants it.

