

LEGAL VIGILANTISM: A DISCUSSION OF THE NEW WAVE OF ABORTION RESTRICTIONS AND THE FUGITIVE SLAVE ACTS
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I. Introduction

With the passage of the Texas Heartbeat Act (SB 8) in September 2021, the Texas state legislature created a blueprint for other conservative state lawmakers to curtail abortion rights and avoid judicial review.¹ By delegating enforcement of abortion restrictions to private citizens, the Texas legislature has deputized its entire population to stop abortions and punish those who conduct, aid, and abet abortions through lawsuits.² Inspired by Texas lawmakers, the Missouri legislature has introduced an even more restrictive piece of abortion legislation that would extend the power to sue beyond state lines, allowing private citizens to sue anyone who helps a Missouri resident obtain an abortion, even if the abortion takes place in another state where abortion is legal.³

This is not the first time citizens have been tasked with depriving others of their rights. The Fugitive Slave Act deputized the entire population to recover fugitive enslaved people⁴ and return them to their enslaver, even in states where slavery was illegal.⁵ This article will discuss the implications of legislation which calls on private citizens to enforce laws which deprive others of their rights through a discussion of the new wave of abortion restrictions and the Fugitive Slave Act.

II. Antiabortion Legislation

a. The Texas Heartbeat Act

SB 8 bans abortions after cardiac activity is detectable—which usually occurs at six weeks—using private enforcement to make it more difficult for federal courts

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¹ Texas Heartbeat Act, 2021 Tex. Gen. Laws ch. 62 (codified in TEX. HEALTH & SAFETY CODE ANN. §§ 171.208 (West 2021)). See Alison Durkee, *South Dakota Governor Latest to Introduce Texas Abortion Copycat Bill—Here Are All the States Weighing a Similar Ban*, FORBES (Jan. 21, 2022), <https://www.forbes.com/sites/alisondurkee/2022/01/21/south-dakota-governor-latest-to-introduce-texas-abortion-copycat-bill---here-are-all-the-states-weighing-a-similar-ban/?sh=62ff9e0bf0a6> (South Dakota, Arizona, Oklahoma, Alabama, Arkansas, Florida, Ohio, and Missouri state legislatures have all introduced copycat bills.).

² See Alta Charo, *Vigilante Injustice — Deputizing and Weaponizing the Public to Stop Abortions*, 385 N. ENG. J. MED. 1441 (2021).

³ See Caroline Kitchener, *Missouri lawmaker seeks to stop residents from obtaining abortions out of state*, WASH. POST (Mar. 8, 2022), <https://www.washingtonpost.com/politics/2022/03/08/missouri-abortion-ban-texas-supreme-court/>.

⁴ I will be using the term “enslaved person” in place of “slave” and “enslaver” in place of “slave owner.” I will continue referring to freedom seeking enslaved people as “fugitives” for ease of access and to mirror the language of the Fugitive Slave Acts.

⁵ Act of Feb. 12, 1793, ch. 7, 1 Stat. 302.

to strike the law down in violation of *Roe v. Wade*.⁶ While prohibitions on conduct are normally enforced by the government, SB 8 prohibits aiding and abetting abortions and assigns the enforcement of the prohibition exclusively to private parties.⁷ By limiting enforcement to private civil actions, SB 8 lacks the required state action to implicate the Constitution, and thus judicial review, until a plaintiff has been injured by the legislation to establish standing.⁸ The Supreme Court has refused to block SB 8 on three separate occasions on procedural grounds, signaling to other conservative states that the private enforcement mechanism is an effective way to sidestep the constitutional requirements and evade judicial review.⁹

SB 8 also works to stack the legal proceedings in favor of plaintiffs and dissuade counsel from representing defendants.¹⁰ Plaintiffs who successfully bring a civil suit against anyone who aids or abets an abortion are entitled to at least \$10,000 plus legal fees.¹¹ Unsuccessful plaintiffs face no penalties for unsuccessful or frivolous suits.¹² In contrast, defendants are entitled to no compensation if they successfully defeat a lawsuit under S.B. 8. and must cover their own attorney's fees.¹³ If they lose, defendants or their counsel are responsible for the plaintiff's legal fees.¹⁴ This fee shifting scheme serves to dissuade lawyers from representing defendants sued under SB 8, setting up proceedings in which the plaintiffs have nothing to lose and everything to gain.¹⁵

The passage of SB 8 has not reduced the need for abortion care for Texas residents, rather it has forced pregnant Texans to cross state lines for abortions.¹⁶ Before SB 8's passage, from September 2019 to December 2019, at least 514

⁶ 410 U.S. 113 (1973). Under *Roe*, states are prohibited from banning abortions before a fetus is viable outside of the womb — usually about 23 weeks into pregnancy. See Sarah McCammon, *What the Texas abortion ban does - and what it means for other states*, NPR (Sep. 1, 2021), <https://www.npr.org/2021/09/01/1033202132/texas-abortion-ban-what-happens-next>.

⁷ See Georginia Yeomans, *Ordering Conduct Yet Evading Review: A Simple Step Towards Preserving Federal Supremacy*, 131 YALE L. J. FORUM 513, 526 (2021).

⁸ *Id.* at 533.

⁹ See Nina Totenberg, *The Supreme Court for a third time allows Texas to bar abortions after 6 weeks*, NPR (Jan. 20, 2022), <https://www.npr.org/2022/01/20/1074534980/supreme-court-for-third-time-allows-texas-to-bar-abortions-after-six-weeks>.

¹⁰ See Jenna Greene, *Top law firms vow to fight Texas abortion law, even if it costs them*, REUTERS (Sep. 16, 2021), <https://www.reuters.com/legal/litigation/top-law-firms-vow-fight-texas-abortion-law-even-if-it-costs-them-2021-09-16/>.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ See Bridgette Jackson, *S.B. 8 and Dobbs—What Lawyers Should Know*, KING COUNTY BAR (Nov. 1, 2021), <https://www.kcba.org/For-Lawyers/Bar-Bulletin/PostId/1559/sb8-and-dobbs-what-lawyers-should-know>.

¹⁶ See Asher Price, *Texas women forced out of state for abortions*, AXIOS (Mar. 8, 2022), <https://www.axios.com/texas-women-out-of-state-abortion-law-751cb153-09c5-4b05-b857-1b8cd32471b3.html>.

Texas residents traveled out of state for abortion care.¹⁷ From September 2021 to December 2021, after SB 8’s passage, at least 5,574 Texas residents traveled out of state for abortion care, marking an almost 11 times increase.¹⁸ Conservative lawmakers have seen how restricting abortion access in one state does not curtail abortions, leading to a new type of antiabortion legislation that target abortions that residents receive out of state.¹⁹

b. The Proposed Missouri Law

In March 2022, a provision was introduced in the Missouri House of Representative which would allow private citizens to sue anyone who helps a Missouri resident obtain an abortion out-of-state.²⁰ This is the first attempt since the passage of SB 8 by conservative lawmakers to target extraterritorial abortions, utilizing the same enforcement mechanism as SB 8 to evade judicial review.²¹ Unlike SB 8, which allows citizens to sue anyone who aids in obtaining abortion services within Texas’s borders, the proposed Missouri law goes a step further by allowing citizens to sue anyone who aids a Missouri resident in obtaining abortion services anywhere.²² This includes abortion services that are obtained outside of Missouri’s borders in states where the service is legal.²³ Although the Missouri House ultimately blocked the provision on procedural grounds, similar provisions can be expected in a post-*Roe* world.²⁴

¹⁷ Kari White, Asha Dane’el, Elsa Vizcarra, Lauren Dixon, Klaira Lerma, Anitra Beasley, Joseph E. Potter, & Tony Ogburn, *Out-of-State Travel for Abortion Following Implementation of Texas Senate Bill 8*, TEXAS POL’Y EVALUATION PROJECT (Mar. 2022), <http://sites.utexas.edu/txpep/files/2022/03/TxPEP-out-of-state-SB8.pdf>.

¹⁸ *Id.* These data undercount the total number of Texans receiving out of state abortion care because data was only collected at 34 of the 44 open facilities in Arkansas, Colorado, Kansas, Louisiana, Mississippi, New Mexico, and Oklahoma—states Texans are expected to travel to based on past reports.

¹⁹ See Caroline Kitchener, *Missouri lawmaker seeks to stop residents from obtaining abortions out of state*, WASH. POST (Mar. 8, 2022), <https://www.washingtonpost.com/politics/2022/03/08/missouri-abortion-ban-texas-supreme-court/>.

²⁰ See Kaia Hubbard, *Missouri is Eyeing a Ban on Abortion Beyond its Borders. It’s Happened Before.*, U.S. NEWS (Mar. 24, 2022), <https://www.usnews.com/news/national-news/articles/2022-03-24/the-model-for-missouris-plan-to-ban-abortion-beyond-its-borders> (“The provision states that ‘it shall be unlawful for any person to perform or induce, or attempt to perform or induce, an abortion on a resident or citizen of Missouri, or to aid or abet, or attempt to aid or abet, an abortion performed or induced on a resident or citizen of Missouri, regardless of where the abortion is or will be performed.’”).

²¹ Texas Heartbeat Act, 2021 Tex. Gen. Laws ch. 62 (codified in TEX. HEALTH & SAFETY CODE ANN. §§ 171.208 (West 2021)) (“(a) Any person, other than an officer or employee of a state or local governmental entity in this state, may bring a civil action against any person who” [aids or abets an abortion]); see Peter N. Salib, *BAN THEM ALL; LET THE COURTS SORT THEM OUT, Saving Clauses; the Texas Abortion Ban, and the Structure of Constitutional Rights*, 100 TEXAS L. REV. ONLINE 13, 28 (2021).

²² See Hubbard, *supra* note 20.

²³ *Id.*

²⁴ See Tessa Weinberg, *Missouri House blocks effort to limit access to out-of-state abortions*, MISSOURI INDEPENDENT (Mar. 29, 2022), <https://missouriindependent.com/2022/03/29/missouri->

i. *Constitutionality of Extraterritorial State Laws*

Provisions which specifically target extraterritorial abortions are likely unconstitutional based on the right to travel, the Privileges and Immunities clause, and the Dormant Commerce Clause.²⁵ In *Crandall v. Nevada*, the Supreme Court endorsed the constitutional right to travel when adopting the view that “we are all citizens of the United States, and as members of the same community must have the right to pass and repass through every part of it without interruption, as freely as in our own states.”²⁶ Taken with the Privileges and Immunities Clause of the Constitution, which states that “the citizens of each state shall be entitled to the privileges and immunities of citizens in the several states,”²⁷ citizens should be entitled to local privileges and immunities, such as the ability to obtain abortion care, when traveling to neighboring states.²⁸

Moreover, the Dormant Commerce Clause prevents extraterritorial commercial interventions, which should prevent individuals from being subject to another state’s laws when providing or assisting someone in receiving abortion care in a state where it is legal.²⁹ In *Healy v. Beer Institute*, the Court held that “the ‘Commerce Clause ... precludes the application of a state statute to commerce that takes place wholly outside of the State’s borders whether or not the commerce has effects within the State.’”³⁰ Thus, state laws which target extraterritorial abortions are in violation of the Dormant Commerce Clause because they seek to punish legal commercial activity in other states.³¹ Despite these previous constitutional interpretations and holdings by the Court, they offer little insight into how the current Supreme Court would decide a case regarding the constitutionality of extraterritorial state laws in the abortion context.³²

house-blocks-effort-to-limit-access-to-out-of-state-abortions/ (Before the provision could be brought to a vote, a substitute amendment was adopted which would “make distributing abortion-inducing drugs that are used in violation of state or federal laws a class B felony, which can result in five to fifteen years in prison.” By adopting the substitute amendment, the provision to punish out-of-state abortions was never brought to a vote.).

²⁵ See David S. Cohen, Greer Donley, & Rachel Rebouché, *The New Abortion Battleground*, 122 COLUMBIA L. REV. 23 (forthcoming, 2022).

²⁶ 73 U.S. 35, 48-49 (1867) (quoting Taney, C.J., dissenting in *Passenger Cases*, 48 U.S. 283, 492 (1949)).

²⁷ U.S. CONST. art. IV, § 2, cl. 1.

²⁸ Seth F. Kreimer, “*But Whoever Treasures Freedom...* ”: *The Right to Travel and Extraterritorial Abortions*, 91 MICH L. REV. 906, 918-919 (1993).

²⁹ Seth F. Kreimer, *The Law of Choice and Choice of Law: Abortion, the Right to Travel, and Extraterritorial Regulation in American Federalism*, 67 N.Y.U. L. Rev. 451, 493 (1992).

³⁰ 481 U.S. 324, 536 (1989) (citing *Edgar v. MITE Corp.*, 457 U.S. 624 (1982)).

³¹ See *id.* at 495.

³² See, e.g., *United Haulers Association v. Oneida-Herkimer Solid Waste Management Authority*, 550 U.S. 300 (2007) (Thomas, J. concurring “The negative Commerce Clause has no basis in the Constitution and has proved unworkable in practice.”); *Direct Marketing Association v. Brohl*, 814 F.3d 1129, 1151(10th Cir. 2016) (Gorsuch, J. concurring “In fact, the whole field in which we are asked to operate today — dormant commerce clause doctrine — might be said to be an artifact of judicial precedent.”).

c. *Abortion Sanctuary Laws*

As conservative states continue to pass sweeping restrictions to abortion access and the Supreme Court is expected to significantly alter *Roe v. Wade*, Democrat-run state governments are moving to pass legislation that prohibits legal action against people who receive an abortion and those who aid them.³³ Oregon lawmakers allocated \$15 million to expand access to abortion, through measures such as providing funding to abortion providers and abortion access hotlines, as well as paying for expenses incurred by individuals traveling to Oregon from states with more restrictive abortion laws.³⁴ Washington state recently passed legislation to prevent people from suing individuals who receive abortion care and those who aid them, while Connecticut, New Jersey, and New York all have similar legislation pending.³⁵ The California state legislature has introduced multiple bills to protect and provide access to reproductive healthcare for California citizens and anyone else who may be without access to the care they need in their home state.³⁶

III. *The Fugitive Slave Acts*

The private enforcement mechanism used in the latest wave of antiabortion legislation harkens back to the Fugitive Slave Acts.³⁷ The 1793 Fugitive Slave Act authorized two civil remedies available to enslavers.³⁸ First, enslavers could sue anyone “who shall knowingly and willingly obstruct or hinder” the enslaver from seizing the fugitive enslaved person, or who “shall rescue, harbor, or conceal such persons after notice that he or she was a fugitive from labor” for \$500.³⁹ Second, the Act gave enslavers the ability to recover damages in a tort action

³³ See Abigail Abrams, *The Battle Over the Future of the Anti-Abortion Movement if the Supreme Court Overturns Roe v. Wade*, TIME (Mar. 25, 2022), <https://time.com/6160143/anti-abortion-roe-wade-supreme-court/>; Rachel La Corte, *Washington state prohibits Texas-style abortion lawsuits*, ABC NEWS (Mar. 17, 2022), <https://abcnews.go.com/Health/wireStory/washington-state-prohibits-texas-style-abortion-lawsuits-83510150>.

³⁴ See Mike Cerullo, *Oregon lawmakers approve \$15 million for expanded abortion access*, KEZI NEWS (Mar. 17, 2022), https://www.kezi.com/news/local/oregon-lawmakers-approve-15-million-for-expanded-abortion-access/article_f2fe5e8a-a654-11ec-9fe7-8f2778788957.html.

³⁵ *Id.*

³⁶ See Nicole Nixon, *With Roe v. Wade in limbo, California lawmakers unveil ‘abortion sanctuary’ package*, CAL. PUB. RADIO (Jan. 21, 2022), <https://www.capradio.org/articles/2022/01/21/with-roe-v-wade-in-limbo-california-lawmakers-unveil-abortion-sanctuary-package/>.

³⁷ See Jon D. Michaels & David L. Noll, *Vigilante Federalism*, CORNELL L. REV. (forthcoming, 2022) (“Devolution of power from the federal government to the states has long been a top priority of the conservative movement—southern conservatives during slavery and segregation, Nixon-era conservatives under the banner of New Federalism, Reagan-era conservatives who championed states’ rights and devolution. . .”).

³⁸ Fugitive Slave Act of 1793, ch. 7, 1 Stat. 302.

³⁹ *Id.* at § 4. See Robert J. Kaczorowski, *The Supreme Court and Congress’s Power to Enforce Constitutional Rights: An Overlooked Moral Anomaly*, 73 FORDHAM F. REV. 153, 164 (2004).

from anyone who interfered with their “right of property” to the individuals they enslaved.⁴⁰

In addition, the 1850 Fugitive Slave Act “commanded all good citizens...to aid and assist in the prompt and efficient execution of [the Fugitive Slave Act], whenever their services may be required.”⁴¹ This provision, which attached a fine of \$1,000 for failing to assist, deputized the entire population to recover fugitive enslaved individuals.⁴² Similar to SB 8, the 1850 Act also provided a financial incentive to induce citizens to enforce the law.⁴³ Individuals who captured an individual determined to be a fugitive were awarded \$5.⁴⁴

Similar to how the cards are stacked in favor of plaintiffs and against defendants under the new wave of antiabortion legislation, the Fugitive Slave Act stacked the cards in favor of the slave hunters and enslavers and against the alleged enslaved person.⁴⁵ Under the 1850 Act, alleged fugitive slaves were prohibited from testifying in their defense.⁴⁶ If the alleged enslaved person’s identity could not be proven, they were released, yet not entitled to any kind of redress.⁴⁷

a. Northern States’ Personal Liberty Laws

In response to the 1873 Fugitive Slave Act, some northern states passed laws to provide protection and due process to fugitive enslaved people and free Black individuals, who were also put in danger by the Fugitive Slave Act.⁴⁸ These laws encouraged the citizens to interfere with the recovery of fugitive enslaved people and aid in their attempts to reach freedom.⁴⁹ All personal liberty laws designed to give legal process to people claimed as fugitive enslaved people were implicitly struck down by the Supreme Court in *Prigg v. Pennsylvania*, when the Court held that Pennsylvania’s Personal Liberty Law was unconstitutional because it interfered with enslaver’s “property rights” to those they enslaved.⁵⁰

IV. Contributing to Systemic Racism

⁴⁰ See Robert J. Kaczorowski, *The Supreme Court and Congress’s Power to Enforce Constitutional Rights: An Overlooked Moral Anomaly*, 73 *FORDHAM F. REV.* 153, 166 (2004).

⁴¹ Fugitive Slave Act of 1850, ch. 60, 9 Stat. 462.

⁴² *Id.* at § 5.

⁴³ *Id.* at § 8. See Michaels & Noll, *supra* note 37, at 37.

⁴⁴ Fugitive Slave Act of 1850 at § 6.

⁴⁵ *The Fugitive Slave Act of 1850*, CONST. RTS. FOUND. (Winter 2021), <https://www.crf-usa.org/images/pdf/Fugitive-Slave-Law-1850.pdf>.

⁴⁶ *Id.* at 6.

⁴⁷ *Id.* Commissioners tasked with overseeing proceedings to determine whether to order the forced return of alleged fugitive enslaved people earned \$10 for each hearing in which they determined that the person brought before them was a fugitive enslaved person. Commissioner still received \$5 if the proof of the alleged enslaved person’s status was insufficient.

⁴⁸ See Jeffrey M. Schmitt, *Courts, Backlash, and Social Change: Learning from the History of Prigg v. Pennsylvania*, 123 *PENN ST. L. REV.* 103, 112 (2018).

⁴⁹ See Kaczorowski, *supra* note 39, at 190.

⁵⁰ *Prigg v. Pennsylvania*, 41 U.S. 539 (1842).

Although the Fugitive Slave Acts and the new wave of abortion restrictions have similarities in their delegation of enforcement through legal vigilantism, the most striking commonality is that both pieces of legislation have detrimental consequences for the bodily autonomy of Black women.

a. *Disparate Gender Implications of Slavery and the Fugitive Slave Acts*

Enslaved women were stripped of any sense of bodily autonomy. They were frequently subjected to brutal sexual abuse at the hands of their enslaver.⁵¹ Sexual violence was used to assert power over enslaved women, and also over enslaved men.⁵² Enslavers used sexual violence against enslaved women to demean enslaved men's manhood by showing that they were unable to protect their mothers, daughters, sisters, and wives.⁵³ Sexual violence also served an economic benefit for the enslaver.⁵⁴ Babies born by enslaved women could be kept for the enslaver to exploit or sold on the market.⁵⁵ According to an enslaver in Virginia, a baby borne by an enslaved women was "worth two hundred dollars...the moment it drew breath."⁵⁶ Enslavers' wealth vastly increased with each child an enslaved women gave birth to.

The amount of enslaved people who attempted to or successfully escaped was sharply gendered. Only 19% of fugitive slaves advertised for in newspapers between 1838-1860 were female.⁵⁷ Although enslaved women desired freedom just as much as enslaved men, they were often unable to attempt to escape because they had young children.⁵⁸ Leaving their children behind was not something enslaved mothers were willing to consider, yet attempting to escape with children in tow presented significant additional risks and challenges.⁵⁹

After the passage of the 1850 Fugitive Slave Act, fugitive slaves were no longer free upon reaching a northern state, instead only being guaranteed freedom upon reaching Canada.⁶⁰ The increased distance to freedom made the possibility of a successful escape further diminished for enslaved mothers in particular⁶¹The

⁵¹ See Sylviane A. Diouf, *Remembering the Women of Slavery*, N.Y. PUB. LIB. (Mar. 27, 2015), <https://www.nypl.org/blog/2015/03/27/remembering-women-slavery>.

⁵² *See id.*

⁵³ *See id.*

⁵⁴ *See id.*

⁵⁵ See Treb Allen, *The Promise of Freedom: Fertility Decisions and the Escape from Slavery*, 92(2) REV. ECON. STATS. 472, 473 (2015).

⁵⁶ PAUL DAVID, ET. AL., RECKONING WITH SLAVERY: A CRITICAL STUDY IN THE QUANTITATIVE HISTORY OF AMERICAN NEGRO SLAVERY 160 (1976).

⁵⁷ JOHN HOPE FRANKLIN & LOREN SCHWEINGER, RUNAWAY SLAVES: REBELS ON THE PLANTATION 212 (1999).

⁵⁸ *See id.*

⁵⁹ *See Id.*

⁶⁰ *See Allen, supra* note 54, at 472.

⁶¹ *Id.* at 474.

Fugitive Slave Act had detrimental implications for Black women, yet it is only one of the many continuing instances of their denial of bodily autonomy.

b. Disparate Racial Implications of Abortion Legislation

Black women have long been failed by the American healthcare system and will be particularly harmed with the passage of the new wave of abortion legislation. The maternal mortality rate for Black individuals is 44 deaths per 100,000 live births, compared to 17.9 deaths per 100,000 live births for white individuals.⁶² Additionally, states with more restrictive abortion regulations have a 7% increase in total maternal mortality rate.⁶³ This illustrates the fact that states where it is the most difficult to end a pregnancy are the same states where it is most dangerous to continue a pregnancy. Particularly, states that require licensed physicians to perform abortion services have a 51% higher maternal mortality rate.⁶⁴ For example, in Mississippi—one of the states with the most restrictive abortion regulations in the country—it was nearly 188 times more dangerous for a Black woman to give birth than it is for them to have a legal induced abortion.⁶⁵ Effectively banning abortion will pose a danger to the health of all pregnant people, but forcing Black women to continue unwanted pregnancies forces them to face a significantly higher risk of death or serious harm.

V. Conclusion

⁶² Donna L. Hoyert, *Maternal Mortality Rates in the United States, 2019*, NCHS HEALTH E-STATS (2021), <https://www.cdc.gov/nchs/data/hestat/maternal-mortality-2021/E-Stat-Maternal-Mortality-Rates-H.pdf>.

⁶³ Dovile Vilda, Maeve E. Wallace, Clare Daniel, Melissa Goldin Evans, Charles Stoecker, & Katherine P. Theall, *State Abortion Policies and Maternal Death in the United States, 2015-2018*, 111 AM. PUB. HEALTH ASSOC. 1696, 1701 (2021).

⁶⁴ *Id.* at 1701-1702 (“A requirement that an abortion should be performed by a licensed physician—enforced by 39 states in 2015—is part of targeted and medically unnecessary requirements on abortion providers aiming to severely reduce the number of abortion providers and thereby limit access to abortion care. Research shows that properly trained advanced practice nurses and physician assistants can competently perform abortion procedures, and this restriction is one of many aimed at these profession that prevents them from addressing gaps in reproductive health care.”). See *Provision of Abortion care by Advanced Practice Nurses and Physician Assistants*, AM. PUB. HEALTH ASSOC. (Nov. 1, 2011), <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2014/07/28/16/00/provision-of-abortion-care-by-advanced-practice-nurses-and-physician-assistants>.

⁶⁵ This statistic was calculated by comparing the pregnancy-related mortality rate for Black pregnant people in Mississippi from 2013-2016 with the national legal induced abortion fatality rate from 2013-2017. *Mississippi Maternal Mortality Report, 2013-2016*, MISS. STATE DEPT. OF HEALTH (Apr. 2019), https://msdh.ms.gov/msdhsite/_static/resources/8127.pdf; Katherine Kortsmitt, Tara C. Jataloui, Michele G. Mandel, Jennifer A. Reeves, Titilope Oduyebo, Emily Petersen, Maura L. Whiteman, *Abortion Surveillance—United States, 2018*, 69 MMWR SURVEILL. SUMM. 7 (Nov. 27, 2020), <https://www.cdc.gov/mmwr/volumes/69/ss/pdfs/ss6907a1-H.pdf>. See *Testimony of Professor Michele Bratcher Goodwin Before the Senate Judiciary Committee* (Jun. 14, 2021), <https://www.judiciary.senate.gov/imo/media/doc/Goodwin%20Written%20Testimony%20Final.pdf>.

In this article, I have explained how the Fugitive Slave Acts and the new wave of abortion restrictions have deputized the entire community with the deprivation of the rights of others. It is important to note that this comparison is an imperfect one—vast differences exist between the legislation discussed. Despite their differences, both pieces of legislation had, or will have, particularly grim implications for Black women. At a time when anti-choice vigilantes are being empowered by conservative state legislatures, we need not forget that this Nation is one that has long deprived women, particularly Black women, the right to bodily autonomy.