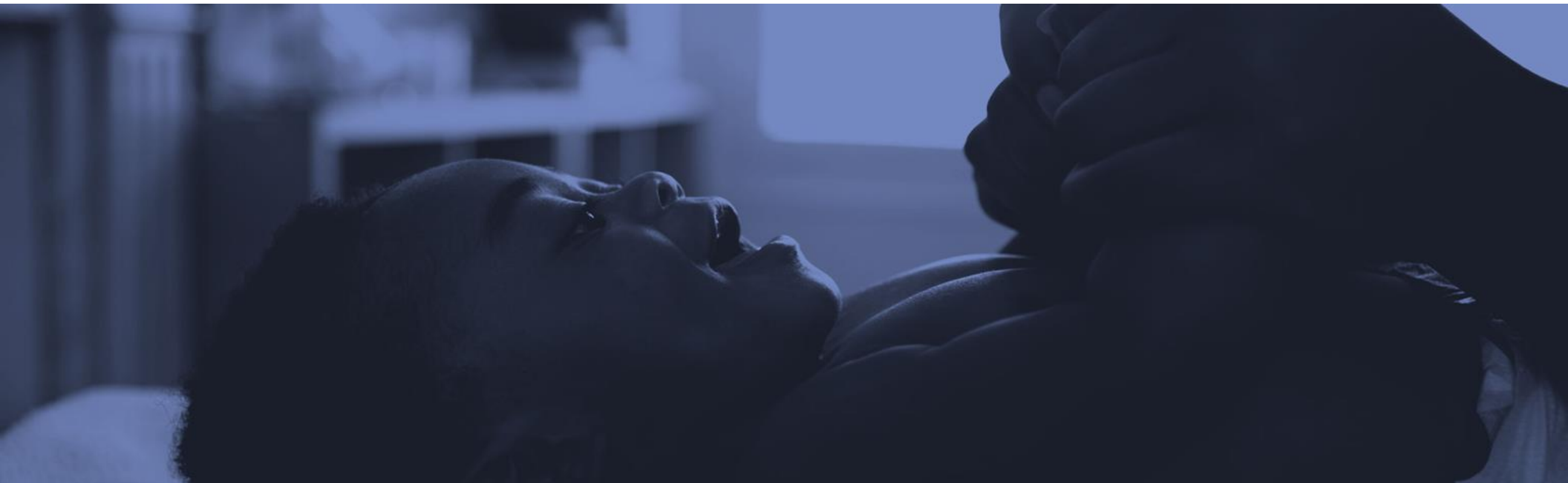




NATIONAL BIRTH EQUITY COLLABORATIVE



After Roe: Legal Aftermath at the State Level

NASEM Webinar

Dr. Joia A. Crear-Perry, M.D., FACOG

ABORTION IS A REPRODUCTIVE JUSTICE ISSUE FOR BLACK FAMILIES AND COMMUNITIES

There have always been those who have stood in the way of our exercising our rights, who tried to restrict our choices. There probably always will be. But we who have been oppressed should not be swayed in our opposition to tyranny, of any kind, especially attempts to take away our reproductive freedom. You may believe abortion is wrong. We respect your belief and we will do all in our power to protect that choice for you. You may decide that abortion is not an option you would choose. Reproductive freedom guarantees your right not to. All that we ask is that no one deny another human being the right to make her own choice. That no one condemn her to exercise her choices in ways that endanger her health, her life.

-We Remember: African American Women for Reproductive Freedom, 1989

Donna Brazile · National Birth Equity Collaborative

Black Mamas Matter Alliance · SisterSong Women of Color Reproductive Justice Collective

Black Women's Health Imperative · In Our Own Voice: National Black Women's Reproductive Justice Agenda

I. ABORTION IS A REPRODUCTIVE JUSTICE ISSUE FOR BLACK COMMUNITIES

Coined by U.S. Black women in 1994, reproductive justice, or the human right to maintain personal bodily autonomy, have children, not have children, and parent the children we have in safe and sustainable communities, is rooted in our experiences with and resistance to reproductive oppression. We have experienced forced pregnancy and childbearing, involuntary sterilization, restrictions to abortion and contraception, and policies and environments that endanger and take away our children. Equitable access to safe and legal abortion is a reproductive justice issue. All people regardless of their backgrounds and circumstances have the right to decide when and how they want to have a child and we trust their ability to make the best decisions for themselves and their families.

REPRODUCTIVE FREEDOM MEANS:

1. The right to comprehensive, age-appropriate information about sexuality and reproduction.
2. The right to choose to have a child.
3. The right to good, affordable health care to assure a safe pregnancy and delivery.
4. The right to health services to help the infertile achieve pregnancy.
5. The right to choose not to have a child.
6. The right to the full range of contraceptive services and appropriate information about reproduction.
7. The right to choose to end an unwanted pregnancy.
8. The right to safe, legal, affordable abortion services.
9. The right to make informed choices.
10. The right to easily accessible health care that is proven to be safe and effective.
11. The right to reproductive health and to make our own reproductive choices.

Avery, B., Barrow, W., Chisholm, S., Collins, C., Edelin, R., Gates, J., Gillespie, M., Height, D., McCabe, J.J., Malveaux, J., Norton, E.H., Tucker, C.D., Tyson, P., Waters, M., & Wattleton, F. (1989). We Remember African American Women for Reproductive Freedom. The National Council of Negro Women, Inc.

Birth Equity & Reproductive Justice

- “***Reproductive Justice*** has three core tenets. These include *the right to have a child, the right not to have a child, & the right to parent in safe and healthy environments*” (Clark et al. 2022:3).
- “Rooted in Reproductive Justice is ***birth equity***, a term coined by the National Birth Equity Collaborative, ***describing the assurance of the conditions of optimal births & well-being for all people combined with a willingness of systems to address racial & social inequities***. At the root of Reproductive Justice & birth equity is the belief that all people are valued, they have fundamental human rights, & they should be supported by governments & health systems to achieve the best possible health outcomes across the reproductive life span. Applying these basic frameworks not only ensures positive outcomes for Black women & other marginalized groups, but can also improve health outcomes for all birthing women” (Crear-Perry et al. 2021:96).

IN THE
Supreme Court of the United States

THOMAS E. DOBBS, M.D., M.P.H., STATE HEALTH
OFFICER OF THE MISSISSIPPI DEPARTMENT OF HEALTH,
et al.,

Petitioners,

v.

JACKSON WOMEN'S HEALTH ORGANIZATION, *et al.*,
Respondents.

**On Writ of Certiorari to the
United States Court of Appeals
for the Fifth Circuit**

**BRIEF OF AMICI CURIAE BIRTH EQUITY
ORGANIZATIONS AND SCHOLARS
IN SUPPORT OF RESPONDENTS**

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September 20, 2021

- “Mississippi’s failure to protect maternal health is part of a pattern. States that have enacted a greater number of abortion restrictions also tend to lack meaningful, supportive policies for maternal & infant health (such as expansion of prenatal & postpartum care under Medicaid)” (2021:28).
- “Women’s health outcomes tend to be worse in states that have enacted a greater number of abortion restrictions. In particular, research has shown that maternal mortality rates increase when states impose certain abortion restrictions & when abortion clinics close” (2021:28-29).

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A state that truly prioritized maternal health would instead enact an array of policies to support pregnant persons and their families, including policies supporting the ability of pregnant persons to access abortion care services if they choose to do so. Such policies would include, among other things, expanding insurance coverage for lower-income persons, providing reimbursement for community-based prenatal care, enacting paid family leave and subsidized childcare programs, and facilitating access to abortion care for pregnant persons at all income levels. In other words, far from banning abortion care (as Mississippi seeks to do), a state that prioritized maternal health would not enact barriers to abortion care access. Truly supporting pregnant persons requires providing them more support, not less, so they can make the decisions that are best for themselves and their families free from the compulsion of the State.

(2021:29)

September 20, 2021

After Roe: The Aftermath of the Dobbs Decision



The NEW ENGLAND
JOURNAL of MEDICINE

Perspective

The End of *Roe v. Wade* — States' Power over Health and Well-Being

Zita Lazzarini, J.D., M.P.H.

Moreover, *Dobbs* has implications extending far beyond abortion. Whether designated as “privacy,” as in *Roe*, or “liberty interests,” as in *Casey*, the freedom those cases recognized is the very foundation of the clinician–patient relationship: the ability to explore medical options and the patient’s values in making decisions that profoundly affect the patient’s life and well-being. State abortion restrictions adopted and enforced under *Dobbs* will immediately endanger anyone who has a health- or life-threatening pregnancy complication, such as miscarriage, premature labor, or ectopic pregnancy. Deaths reported in Ireland, Poland, and elsewhere painfully illustrate the risks to women’s lives from such laws’ chilling effect on physicians who fear that even managing a miscarriage could expose them to legal or criminal liability.^{1,2} Physicians who care for patients capable of becoming pregnant will be directly implicated in efforts to enforce abortion bans; both patient privacy and justifications for medical decision making will become targets for government investigation and even surveillance.³

Utilizing Reproductive Justice to Derive Solutions

- Medicaid Expansion
- Paid Family Leave
- Telehealth
- Ensuring Optimal Perinatal Mental Health

Until policy changes that support abortion access are enacted overall in the U. S., strategies that can be implemented immediately include:

- Strengthen sexual health education provided in schools to increase awareness of options for preventing unwanted or unplanned pregnancy;
- Improve access to information about fertility and fertility management, including monitoring menstrual cycles and menopausal status, and reliable and effective birth control approaches for all reproductive life stages, with attention to the specific needs of midlife women;
- Advocate for inclusion of explicit coverage of effective and reliable contraception and other pregnancy prevention methods in health insurance plans;
- Provide readily accessible and affordable early pregnancy detection;
- Provide “morning after” contraception to women to have on hand “just in case” (Plan B);
- Advocate for policies that would insure women’s right to agency over our bodies.

(Berg & Woods 2023:5)

Increasing Access to Reproductive Health Care

- March 8th, 2021, a letter was submitted to President Biden & the Transition Co-Chairs to establish the White House Office of Sexual & Reproductive Health & Wellbeing (OSRHW), under the Domestic Policy Council.
 - Establishing the OSRHW will ensure a permanent infrastructure to:
 - (1) develop a federal strategy for promoting equitable sexual & reproductive health & wellbeing through a human rights, gender & racial equity lens,
 - (2) better coordinate the actions of the many departments & agencies whose actions in both domestic & foreign policy contexts impact sexual & reproductive health & wellbeing of people in America & around the world.



Thank you



Visit us at birthequity.org

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