

“Deeply Rooted”: Discussing the Aftermath of *Dobbs*

March 9, 2023

University of Tennessee College of Law Room 132

The majority in *Dobbs v. Jackson Women's Health* overturned *Roe v. Wade* and *Planned Parenthood v. Casey*, holding that the right to abortion was not "deeply rooted in our nation's history or traditions." The dissent disagreed, stating that the right to abortion is essential to the guarantees of liberty and equality. For the past 50 years, the right to abortion has deeply shaped the lives and choices of individuals and families. This symposium will explore the aftermath of *Dobbs*, a decision that has uprooted the nation's understanding of privacy and autonomy. The symposium is sponsored by the *Tennessee Journal of Race, Gender, and Social Justice* at the University of Tennessee College of Law.

Each panel will discuss a specific impact of the *Dobbs* opinion and the people affected. We will examine the legal analysis in *Dobbs* and its impact on constitutional law, including rights previously recognized by the Supreme Court under the Due Process and Equal Protection Clauses. We will discuss the impact of *Dobbs* on access to health care and on the medical profession, as well as the impact on marginalized communities. Finally, we will analyze the consequences for citizens of Tennessee in the post-*Dobbs* world, where abortion is now illegal.

Speakers include legal scholars, legal and medical professionals, and advocates in Tennessee. Prof. Mary Ziegler, a leading expert in the legal history of abortion, will give the keynote address, *Canary in a Coal Mine: What Does it Mean to Lose a Constitutional Right?*

We hope that this symposium will spur a critical conversation about the role of this landmark case in shifting the legal landscape surrounding civil rights. We invite you to attend either in person or virtually via Zoom.

Introductory Remarks

University of Tennessee College of Law Dean Lonnie Brown will deliver brief introductory remarks at 9:00 A.M. A light breakfast of coffee and pastries will be provided.

When: 9:00 A.M. - 9:15 A.M.

Dobbs and the Constitution.

Roe and *Casey* safeguarded the right to abortion for over half a decade. This panel will discuss the constitutional foundation of these cases and the decision in *Dobbs* to overrule this established precedent. Panelists will examine the impact of *Dobbs* on constitutional law and compare other countries' approaches to reproductive rights.

When: 9:30 A.M. – 10:30 A.M.

Who: James Hart (Visiting Professor, Stetson University School of Law), Serena Mayeri (Professor of Law and History, University of Pennsylvania Carey Law School), Val Vojdik (Walller Lansden Distinguished Professor of Law, University of Tennessee College of Law).

Access to Reproductive Care Post-*Dobbs*.

The *Dobbs* decision impacts more than the constitutional right to an abortion. It impacts access to health care, including in vitro fertilization, birth control, and lifesaving health care as well. As states confront what the *Dobbs* decision will mean for their state laws, shield bills have been enacted to protect against the threat of extra territorial prosecution. This panel will discuss these bills along with other issues concerning reproductive care that have emerged in the forefront of public discourse following *Dobbs*.

When: 10:45 A.M. – 11:45 A.M.

Who: Meghan Boone (Associate Professor of Law, Wake Forest University School of Law), David Cohen (Professor of Law, Drexel University Thomas R. Klein School of Law), Dr. Leilah Zahedi-Spung, M.D. , FACOG (Denver, Colorado).

“Canary in the Coal Mine; What Does It Mean To Lose a Constitutional Right?”

Professor Mary Ziegler, one of the leading authorities on the legal history of the American abortion debate, will present the keynote address. She is the Martin Luther King, Jr. Professor of Law at the University of California Davis School of Law. Lunch will be provided.

When: 12:00 P.M. – 1:15 P.M.

The Impact of *Dobbs* on Marginalized Communities.

The *Dobbs* decision has a resounding effect on all people with the capacity of pregnancy. Justice Thomas's concurrence, for example, explicitly advises the Supreme Court to “reconsider all of this Court’s substantive due process precedent, including *Griswold*, *Lawrence*, and *Obergefell*.” This panel seeks to highlight the intersectionality of reproductive freedom and the impact of access to reproductive care on marginalized communities.

When: 1:30 P.M. – 2:30 P.M.

Who: Teri Baxter (Williford Gregg Distinguished Professor of Law, University of Tennessee College of Law), Seema Mohapatra (M.D. Anderson Foundation SMU School of Law), Wendy Bach (Professor of Law, University of Tennessee College of Law), Robin Maril (Assistant Professor of Law, Willamette University College of Law).

Dobbs in Tennessee

Tennessee has a trigger ban that went into effect immediately after the *Dobbs* decision was announced. The abortion ban does not include exceptions, only affirmative defenses. This panel will discuss the devastating impact of this law. It also will highlight the organizations that have formed to advocate for people with the capacity for pregnancy and their physicians in navigating this unprecedented situation.

When: 2:45 P.M. – 3:45 P.M.

Who: Stella Yarbrough (Legal Director of ACLU-TN), Chloe Akers (Founder of Standing Together Tennessee), Tennessee State Representative Gloria Johnson, Tyler Yarbrow (Board Member of Tennessee Freedom Circle).

Concluding Remarks and Reception

After the conclusion of the final panel, Prof. Val Vojdik, the faculty advisor for the *Tennessee Journal of Race, Gender, and Social Justice* will present some closing remarks and invite speakers, faculty and staff, and journal members to a reception to follow the symposium.

Dobbs Symposium Speaker Biographies – In Order of Speaking Appearance

Panel 1: *Dobbs* and the Constitution

Serena Mayeri, Ph.D.

Serena Mayeri is a Professor of Law and History at the University of Pennsylvania Carey Law School. Her scholarship focuses on the historical impact of progressive and conservative social movements on legal and constitutional change. Her first book, *Reasoning from Race: Feminism, Law, and the Civil Rights Revolution*, received the Littleton-Griswold Prize from the American Historical Association and the Darlene Clark Hine Award from the Organization of American Historians. Professor Mayeri teaches courses in family law, employment discrimination, gender and the law, and legal history. She also holds a secondary appointment in the Department of History and is a Core Faculty member in the Program on Gender, Sexuality, and Women's Studies. In 2016, Professor Mayeri was named a Distinguished Lecturer by the Organization of American Historians. With Reva Siegel and Melissa Murray, she co-authored an amicus brief in *Dobbs* arguing that laws restricting abortion violate the Equal Protection Clause.

Valorie K. Vojdik

Valorie K. Vojdik is the Waller Lansden Distinguished Professor of Law at the University of Tennessee College of Law. She teaches Sex, Gender, and Justice; Civil Rights; Federal Courts; and Civil Procedure. From 2011-2015, she served as Director of Law Clinics and founded the Appellate Clinic. Professor Vojdik's scholarship focuses on gender and the law, feminist and masculinities theory, civil and human rights, and social institutions. She has written numerous articles and book chapters on issues including sexual violence against men and women in conflict, gender in social institutions, and international law concerning gender violence and sexual abuse and exploitation of peacekeepers. She has also contributed to the Feminist Legal Judgments Project, rewriting Supreme Court and Court of Appeal opinions on constitutional and employment discrimination law. Before joining the academy, Professor Vojdik served as lead counsel to Shannon Faulkner and other women who successfully challenged the males-only admission policy of the Citadel in South Carolina in federal court. She currently serves as faculty advisor to the Tennessee Journal for Race, Gender, and Social Justice and the student chapter of If/When/How. She is also a member of the Tennessee Advisory Committee to the U.S. Commission on Civil Rights. Before joining the legal academy, she practiced law at Shearman & Sterling in New York City, where she litigated complex commercial and civil rights cases. She is a graduate of New York University School of Law and Brown University.

James Hart

James Hart is a Visiting Professor of Law at Stetson University College of Law, where he teaches Constitutional Law and a seminar on a History of the Supreme Court. He has written scholarly articles on a range of topics including the First Amendment and fundamental tensions at the heart of the United States' liberty heritage. He graduated from the University of Denver Sturm College of Law, receiving the law school's Faculty Prize, the Hardaway Prize, and Scholastic Achievement Award. Before he began teaching, Professor Hart practiced law as a partner in the Denver-based

litigation firm Choquette & Hart, LLP. Prior to his career in law, Prof. Hart, a classically trained violinist, performed throughout the U.S. and Europe and attended the Julliard School, Oberlin Conservatory, and the Peabody Institute. He has played violin in the Colorado Symphony Orchestra since 1991.

Panel 2: Dobbs and Access to Health Care

Meghan Boone

Meghan Boone is an Associate Professor of Law at Wake Forest University School of Law. She teaches Constitutional Law, Reproductive Justice, Family Law, and Civil Procedure. Prof. Boone researches and writes on topics related to the state regulation of the physical body, often focusing on the rights of pregnant, birthing, and parenting individuals. In 2020, she was named the winner of the American Association of Law School (AALS) Scholarly Papers Competition for her George Washington University Law Review article, "Reproductive Due Process." Her scholarship has been published in the California Law Review, the Georgetown Law Journal, the Harvard Law & Policy Review, and the Fordham Law Review, among other publications.

David Cohen

David S. Cohen is a professor of law at Drexel University's Kline School of Law where he teaches constitutional law, sex discrimination and the law, and reproductive rights and justice. He is the coauthor of two books about abortion, *Living in the Crosshairs: The Untold Stories of Antiabortion Terrorism* (Oxford 2015) (with Krysten Connon) and *Obstacle Course: The Everyday Struggle to Get an Abortion in America* (California 2020) (with Carole Joffe). He is on the board of the Abortion Care Network and works with the Women's Law Project representing abortion providers in Pennsylvania in various legal matters. With his current coauthors, Greer Donley, and Rachel Rebouché, he has spearheaded the movement of abortion-supportive states to adopt shield provisions, laws that protect abortion providers and patients from antiabortion state efforts to punish them.

Leilah Zahedi-Spung, M.D.

Dr. Zahedi-Spung is an Assistant Professor through the Department of OBGYN in both the Division of Maternal Fetal Medicine and Complex Family Planning at the University of Colorado. She is a Maternal Fetal Medicine physician and abortion care provider. She is a board-certified OBGYN and board-eligible MFM and CFP physician. Dr. Zahedi-Spung received a BS in Biology and Psychology from the University of Georgia and her Medical Degree from Emory University. She completed her residency training in Obstetrics and Gynecology at Emory University and her fellowship training at Washington University in St. Louis. Following fellowship, she worked at Regional Obstetrical Consultants in Chattanooga, TN and as an Assistant Professor for the University of Tennessee -Chattanooga, Department of Obstetrics and Gynecology. She served as the Family Planning Faculty Lead and received the APGO CREOG Teaching Award in 2021. She participated in the Physicians for Reproductive Health Leadership Training Academy and was a

past awardee of the SMFM Reproductive Health Mini-Sabbatical Grant. She served as a fellow member of the SMFM Reproductive Health Advisory Group and now as a faculty member. She serves as a member of the Education Committee through the Society for Family Planning. She is passionate about advocacy and provision of comprehensive reproductive health care and abortion care.

Keynote Address

Mary Ziegler

Mary Ziegler is a leading authority on reproductive and constitutional rights within the American justice system. As a lawyer, she understands how our courts affect every facet of our lives; as a historian, she investigates how we got to this level of political division and polarization—and how we can still get ourselves out. Mary reveals that the abortion debate and the political landscape after *Roe v. Wade* is a symptom of larger shifts in our democracy: “abortion can be the canary in the coal mine when it comes to other changes in the US political system.”

In her latest book, *Roe: The History of a National Obsession*, Mary argues that *Roe v. Wade* has repercussions far beyond the abortion debate and the medical field. She shows how *Roe* helps explain broader aspects of America today: from racial justice to our constitutional rights, and from our democratic institutions to the role of science in politics. She helps us make sense of our current political climate—*Publishers Weekly* called her book “a must-read for those seeking to understand what comes next.”

Her previous book *Dollars for Life* traces how the battle to reverse *Roe v. Wade* changed the rules around our economy, our elections, and our democracy at large. Her previous three books offer a compelling view of American abortion law and politics, and how they connect to our trust in the justice system. She’s currently a professor at the University of California, Davis School of Law, and has provided critical commentary and expertise to news outlets including CNN, NPR, Bloomberg TV, *The Washington Post*, and *The New York Times*.

Panel 3: The Impact of *Dobbs* on Marginalized Communities

Teri Dobbins Baxter

Teri Dobbins is the Williford Gragg Distinguished Professor of Law at the University of Tennessee College of Law. Her courses include Constitutional Law, Constitutional Rights and Liberties, and a seminar in Family and Privacy Law. Prof. Baxter writes about constitutional issues related to family privacy, the rights of children, and discrimination against historically oppressed or marginalized populations. Her recent scholarship has also explored the link between laws and policies that discriminate on the basis of race and racial health disparities. Before embarking on a career teaching law, Professor Baxter practiced in the litigation and appellate sections in the Houston office of Locke Liddell & Sapp LLP (now Locke Lord LLP) for five years. She then joined the faculty at Saint Louis University School of Law between 2002 and 2013. While there, Professor Baxter a seminar focused on the Fourth Amendment, Privacy, and Family Law issues.

Robin Maril

Robin Maril is an Assistant Professor of Law at Willamette University teaching Constitutional Law, Administrative Law and Health Law. Her current scholarship explores the intersection of constitutional law and administrative law with a focus on nondiscrimination, religious freedom, and LGBTQ equality. Prior to entering teaching, Professor Maril served as the associate legal director at the Human Rights Campaign. Professor Maril's work at HRC focused on federal laws and policies impacting LGBTQ people, including the administrative preparation and implementation of *U.S. v. Windsor* and *Obergefell v. Hodges*.

Seema Mohapatra

Seema Mohapatra holds the MD Anderson Foundation Endowed Professorship in Health Law at SMU Dedman School of Law. Her research centers around health care equity, the intersection of biosciences and the law, assisted reproduction and surrogacy, reproductive justice, and public health law. Prof. Mohapatra is the co-editor of “Feminist Judgments: Health Law Rewritten” (with Lindsay F. Wiley) (forthcoming 2022, Cambridge University Press). She is also a co-author of the third edition of the textbook “Reproductive Technologies and the Law” (with Judith Daar, I. Glenn Cohen, and Sonia Suter) (Carolina Academic Press). Her work has been published in various law reviews, including the *Emory Law Journal*, the *University of Colorado Law Review*, the *Harvard Law and Policy Review*, and the *Yale Journal of Health Policy, Law, and Ethics*, and numerous peer reviewed journals. Professor Mohapatra serves on the Board of Directors of American Society of Law, Medicine, and Ethics and the Ethics Advisory Committee at the UNMC Global Center for Health Security. She earned a J.D. degree from Northwestern University School of Law and has a master’s degree in Public Health with a concentration in Chronic Disease Epidemiology from Yale University. She earned a bachelor of arts from Johns Hopkins University.

Wendy Bach

Professor Wendy A. Bach is a nationally recognized expert in both clinical legal education and poverty law. She has been with UT Law since fall 2010. From 2005 to 2010, she taught at the City University of New York School of Law. Before entering the academy, she was director of the Homelessness Outreach and Prevention Project at the Urban Justice Center in New York City and a staff attorney with the Legal Aid Society of Brooklyn.

Professor Bach has dedicated her career to representing children and families in poor communities in a variety of legal settings. Her scholarship focuses on the interaction between systems of support and care and systems of punishment in poor communities. She has been published in the *William and Mary*, *Wisconsin*, *Brooklyn*, and *Michigan Law reviews*, *The Florida Tax Review* and *The Yale Journal of Law and Feminism*. Her first book *Prosecuting Poverty, Criminalizing Care* is being published in the Fall of 2022 by Cambridge University Press.

Panel 4: *Dobbs* in Tennessee

Chloe Akers

A Tennessee native, Chloe Akers is a Knoxville attorney who has been practicing law as a criminal defense attorney for over 14 years. Her commitment to social justice and human rights has taken her from Philadelphia to Milwaukee to Seattle, working as both a federal and state public defender. She has spoken widely on the criminalization of healthcare and the consequences for maternal health and patient safety. She is actively working with the American College of Obstetrics and Gynecology presenting webinars for physicians across the country, providing education and support as they navigate this new medical landscape. Her work has been published by The American Bar Association and The Tennessean, and she has contributed to articles in The New Yorker, The Wall Street Journal, NBC National News, and National Public Radio. She has also been featured on MSNBC, as well as a number of local and regional news outlets. She is also the founder of Standing Together Tennessee, Inc., an online legal resource center set to launch in the early Spring of 2023. Incorporating and highlighting a diverse array of perspectives on the myriad social, economic, and medical issues related to Tennessee's abortion ban, Standing Together Tennessee aims to educate and empower Tennesseans with information and strategies to regain control of their reproductive freedoms. She is a graduate of Cornell University and The University of Tennessee College of Law.

Gloria Johnson

Gloria Johnson is the Tennessee State Representative in House District 13. She is a retired Knox County school teacher with 27 years' experience educating special needs children. Her advocacy work over the past 10 years with health care and a lifetime advocating for public education keeps her energized and inspired. She served in the 108th General Assembly as a strong advocate for public education, affordable health care, our Tennessee mountains, and good jobs with good wages. She wants to ensure that every child has access to a high-quality, well-resourced public school. She wants to ensure that every family can go to the doctor when they are sick without going broke. And she is standing up to corrupt corporate special interests and prioritizing people who work for a living.

Tyler Yarbro

Tyler Yarbro is an attorney and Managing Partner at Dodson Parker Behm and Capparella PC in Nashville, Tennessee. Her legal practice includes litigation in employment, probate, criminal and general litigation matters. Over the past two years, she has devoted a substantial portion of her practice to providing criminal compliance counsel to abortion providers in Tennessee. Ms. Yarbro is a founding member of the Tennessee Freedom Circle, an organization that seeks to connect and educate lawyers working to advance reproductive freedom and to empower those who want to make changes to the laws that impair the reproductive decisions of all Tennesseans. Prior to joining Dodson Parker, she worked at Nashville's Metropolitan Public Defender's Office representing indigent clients facing every level of offense. Since 2016, she has been an Adjunct

Professor at Vanderbilt School of Law teaching Trial Advocacy. Ms. Yarbrow earned her law degree from the University of Virginia and her undergraduate degree from Wellesley College.

Stella Yarbrough

Stella Yarbrough is the Legal Director of the American Civil Liberties Union of Tennessee. Prior to joining the ACLU-TN as a staff attorney in January 2020, she worked as a staff attorney in the Office of Civil Rights at the Tennessee Department of Education. She previously served as an assistant public defender in the Davidson County Public Defender's Office. Ms. Yarbrough received her law degree from Vanderbilt University and holds a master's degree from the Vanderbilt Divinity School. She is also a graduate of Gideon's Promise CORE 101 program, a three-year intensive trial skills training program for public defenders.