

Race and the Reality of Reproductive Rights in the United States

TRANSCRIPT

ANNA RUPANI: We have, by design, created these rules that impact Black community and other people of color. Because our nation has been rooted in white supremacy, and has been rooted in a way that has created problems for those that do not identify as white. And the longer we continue to perpetuate that problem, the longer it impacts them. So, if you're a Black mother, or a Black parent, who's had two children, and it's pregnant again, and know that you can't have a third child, because you won't be able to focus on the two children that you already have, or can't make ends meet with the children you already have, you should be able to access that care without being forced to carry the third one to term. But if you don't have access to care, then you're now being forced into poverty by having this third child and that's problematic.

SRUTHI BOPPANA: On the 1st of September, SB-8, which can really be named the near total abortion ban bill, took effect in Texas. The law has sparked widespread debate, as it poses a threat to a pregnant person's reproductive autonomy. And it's quite possibly in defiance of the Constitution. On the surface, the law appears neutral, as though it affects all people equally. However, nothing could be further from the truth. We started this podcast listening to Anna Rupani, the Executive Director of Fund Texas Choice, which provides support for persons seeking an abortion, including funding for transportation, or lodging, and everything in between, from booking an appointment, getting to an appointment, and coming back. Her experience and her observations on the ground reflect why the law is not neutral, but is in fact colorblind. In today's episode, we discuss how SB-8 in particular, and restrictive abortion legislation and regulation in general, disproportionately affect persons of color. Thank you for tuning in to today's podcast episode. My name is Sruthi and I work as a prosecutor in Singapore specializing in sex crimes. And with me are Sol and Lise, who are also part of my team.

SOL VÁSQUEZ ORTIZ: Hello, everyone. My name is Sol Vázquez Ortiz, and I'm a Puerto Rican lawyer and feminist. My main areas of interest are reproductive justice and public policy.

LISE MITSINGA: Hi, I'm Lise Mitsinga. And I'm a lawyer from the Netherlands. My areas of expertise are constitutional and administrative law.

SRUTHI: We are a group of LLM students at Columbia Law School. And this episode is an end of term project for our course in Critical Race Theory. The course is taught by Professor Kendall Thomas and Professor Flores Forbes. Over the last few months, the spate of reproductive rights cases before the Supreme Court have thrown into sharp focus has serious implications for pregnant persons' access to abortion. Given our collective interest and background, which in some ways ties us together to this issue. We hope to share with you what we have learned and discovered from a Critical Race Theory lens and through the concept of colorblindness.

LISE: First things first, a question some of our listeners may have is, what is Critical Race Theory? What do you mean by colorblindness?

SRUTHI: That's -- that's a really good question, Lise. And we have spent an entire semester studying this. So, I'll do my best to share what I understand these concepts to mean. Critical Race Theory is a body of legal scholarship that analyzes the role of race and racism in the legal doctrine. Kimberlé Crenshaw, who's one of the founders of Critical Race Theory defines it as -- and I quote -- "it is a practice, a way of seeing how the fiction of race has been transformed into concrete racial inequities. It's an approach to grappling with a history of white supremacy that rejects the belief that what is in the past is in the past, and that the laws and systems that grow from the past are detached from it." Colorblindness, on the other hand, is one of the concepts that is examined in Critical Race Theory scholarship, Lani Guinier and Gerald Torres write that colorblindness -- I quote -- "focuses on managing the appearance of formal equality without worrying much about the consequences of real-world inequality." So, in essence, it's -- it's a concept that examines the extent to which laws appear to apply equally to all in theory, but affect people differently, and on an unequal basis in reality. Before discussing how Critical Race Theory plays into abortion legislation and regulation, let's lay the groundwork for SB-8. SB-8 prohibits abortions once a fetal heartbeat is detected, which is around the six week mark. The reality is most people don't know they're pregnant around this time. A mere two weeks after you may have missed your period. But what's unique about the Act is that it prohibits state officials from enforcing the law. Instead, it allows private citizens to file a lawsuit against abortion providers or any person who knowingly helps a person obtain an abortion in Texas, essentially making private citizens act as bounty hunters.

SOL: Wait, does this mean that that applies to anyone? If I take a friend to an abortion clinic? Could someone sue me?

SRUTHI: Exactly, Sol. The family friend that gives you money for an abortion or the sibling that drives you there. Anyone who knows about it. Let's hear more from Anna on this.

ANNA: SB-8 is uniquely different in that -- it kind of deputizes the citizen with this bounty aspect that it has, this \$10,000 aspect. So, *Roe* set the floor, that folks need to be able to access abortion, so states can't interfere in that right. And so basically, SB-8 has exacerbated this, because the states are like, well, we're not acting. Random Jane Doe and random John Doe are acting and so hey, we're not telling you -- you can't get an abortion. Jane Doe is telling you can't get an abortion, or John Doe is telling you can't get an abortion. If Jane and John can sue me, then really am I able to access care? And so, what it's done is shocked clinicians from performing. Because if they perform, could get sued, and even say, if they're like, I don't care, I'm gonna do whatever it takes to make sure folks access abortion, I don't care, sue me, up to what point? You could sue me for the same client, and then continue to sue anyone else that helped that same client over and over again. And so, for one client, people could lose tens of thousands of dollars. And as nonprofits, were not able to afford that. And as independent clinicians, oftentimes who are contractors, can't afford that. And so, what you've seen is this impact of state inaction, being forced on deputizing individuals who have been -- basically threatened folks like myself, and folks that do the work, that you're going to get sued. And if you get sued, you won't be able to practice 'till we figure out what's gonna happen with this law. And

so then, not only am I not able to help Texans, access care in Texas, I'm no longer able to help Texans access care out of Texas.

SRUTHI: And that's not all, though. The Act only calls for an exception in the case of a medical emergency. So really, there are no exceptions made, even in cases of rape or incest. Some abortion clinics in Texas have seen a drastic drop in patients. In fact, I recall, Anna was telling us that it's gone down by more than 50% since SB-8 was introduced. Clinics in Texas have also reported that people have sent persons pretending to be patients into the clinic, just to see if service providers would break the law. After SB-8 was enacted on the 1st of September 2021, the Supreme Court agreed to hear two separate challenges. One was brought by the Department of Justice and the other by Whole Women's Health and Family Center, which is a health facility that provides abortion care services. We hear more from Anna about how these cases were dealt with and the implications that they may have.

ANNA: So, Fund Texas Choice was a part of the original lawsuit that went out to the Supreme Court that was filed in July. That was then on September 1, kind of at the wee hours, late hours, of September 1st, the Supreme Court said they're not going to act, right. And Chief Justice basically said, "This is ridiculous". And he doesn't even like to do injunctions like this, but he's like in this circumstance, we should be doing an injunction. And if you notice, from the 5-4 decision, that five justices, they didn't give much of a reason. But they said, procedurally, they didn't go the right way. So, they just refuse to talk about the constitutionality of a law. They talked about the procedural aspects. And that's why the law was written so crazily, its so that you could basically not do anything, and get away with limiting access to care. And so now that case is down to the Fifth Circuit again, because Supreme Court just made their decision last week again, failing to act one more time. And so, we're part of this lawsuit trying to figure out what the heck to do, because now we can only sue licensing boards. But Jane and John Doe could still sue me. If I help a Texas, right. And then we wrote one of the declarations for the DOJ case, which has now been dismissed. And so, it's like, again, the general strategy was, let's confuse the heck out of everyone. And let's make sure the state isn't acting so then the state can't get sued. And if the state can't get sued, how do you overturn this law because, hey, the people enforcing it aren't even state actors.

SOL: Also, on December 1, the Supreme Court heard oral arguments in another key case *Dobbs v. Jackson Woman's Health Organization*. This is yet another significant abortion case. We can't stress that enough. It concerns the Gestational Age Act of Mississippi. The Act prohibits abortion after 15 weeks, except in cases of medical emergency and severe fetal abnormality. Now, given the Court's ideological makeup in relation to abortion rights, it's a conservative majority. These cases set the stage for the most pivotal abortion rights ruling in decades, particularly since we've seen what happened with *Whole Woman's Health*. We already saw the result of that and how the Court isn't willing to stop this law -- to continue being in effect.

LISE: How did we get to this point? How did these laws become so draconian? Well, to have a clear understanding of the effects of restrictive abortion legislation and regulation on the reproductive rights of women of color, we have to place them in a broader historical context. We will start by discussing the state of abortion rights from the 15th century and we'll work our way upwards to the 21st century. So, what is interesting is that when we look at the history, abortion

was not criminalized in the United States for centuries. It was a legal procedure that was carried out by Native American women who used a number of effective abortion methods. Ranging from the use of herbal preparations to external physical methods, women continued to undergo abortions with the arrival of European settlers. And that is because under English common law, abortion was not illegal as long as the procedure was induced before quickening. What we mean by quickening is the first movements of the fetus feels in the uterus, which typically happens between the fourth and six months of pregnancy.

SOL: Now, things started to change around the 17th century when the slave trade began to take root in America, specifically in the United States. The acceptance of abortion in society was different for enslaved people. It was financially beneficial for them [slave owners] to have women to procreate. They were pushed to bear children, these persons were subjected to reproductive coercion, that's the only way that we can describe it really.

SRUTHI: My understanding is also that this took on different forms such as forced reproduction, rape, and sexual assault, and enslaved persons have been reported to make different concoctions that was successful in inducing abortions and clearly tried to regain ownership of their reproduction. But attempts to openly undergo abortions were met with severe consequences. Since this decreased the future profits for the slave owners. In the eyes of many, enslaved persons were considered property. And this meant that the laws and policies about abortion affected them differently than persons who were not enslaved. Even though abortion was not illegal in the nation as a whole, enslaved persons did not possess the right to terminate their pregnancies unlike other persons. So that makes us wonder or ask, when and why was abortion criminalized?

LISE: Well, the right to abortion did not become illegal until the 19th century. Contrary to popular belief, the anti-abortion movement was not rooted in religion, or the belief in the sanctity of human life, but in the racist origins of gynecology. In fact, the Catholic Church tolerated abortions for most of history. It wasn't until 1869 that the Church took on a bigger stance on abortion, in saying that life begins at conception. Up until that point, the church had not adopted the view that a fertilized egg is a person, let alone condemn abortion.

SOL: Wait, so how were doctors involved in this, since you reference gynecology?

LISE: So, the anti-abortion movement was led by male physicians who were in the process of developing the field of gynecology. Their strategy was to obtain exclusive authority over women's reproductive health care. And they did so by preventing women from entering the field of midwifery and medicine and the tactics they use included stigmatizing abortion and invalidating the knowledge and work of midwives.

SOL: Why were these the two focal points in their quest to monopolize women's health care?

LISE: Well, that's because since our earliest recollection, midwives provided successful gynecological care, which included the practice of delivering babies and terminating pregnancies. By shutting up midwives, who in that time were predominantly Black women, male physicians gradually obtains the exclusivity of women's reproductive health care. But as you can

imagine, the rise of gynecology came at a cost. Since it was a field in development, knowledge was gained by conducting medical experiments on enslaved Black women for the advancement of white women's health care. Take Dr. Marion Simms, for example. He's credited as the father of modern gynecology, and he performed multiple surgeries on non-consenting enslaved women without anesthesia. Physicians did not act alone. The American Medical Association supported their efforts. They, for example, were successful in lobbying for the licensure of midwifery. They also successfully lobbied for the criminalization of abortion by connecting falling birth rates with abortion. The argument was that since birth rates were falling among white women and rising among non-white women, this should be seen as a national concern that would have a lasting effect on American society. The other argument that they set forth was that the right to abortion would jeopardize the traditional role of women in society as wives and mothers. Out of fear that the demographic change of society would reduce the political power of white people, states began to adopt restrictive abortion legislation in the 19th century. So even though the anti-abortion movement arose out of self-serving motives, it was framed as a movement engaged with a public interest that concerned society as a whole.

SOL: I'm going to have to interject here for a second, because when we started this episode, we were just pointing out how these laws affect women of color disproportionately, and we'll definitely address that point moving forward. But I think it's also important to just point out how this history -- the fact that the anti-abortion movement kind of can be tracked back to enslavement -- it's such a huge thing. Like, it's not even that these laws affect women disproportionately is that the development of the anti-abortion movement, it's completely connected from its inception, to race, and specifically to women of color. So, I think when people try to ignore the role of race and this type of issue, it's like, not only denying history, but denying the present and the future of what's occurring.

SRUTHI: That's absolutely right, SOL. So much of the narrative when we talk about abortion revolves around religion that we forget that this is part of the story as well. Now, if we fast forward to the time, just before the early 1970s, states are the ones regulating the illegality or legality of abortion. It's important to keep that in mind as we listen to Professor Carol Sanger from Columbia Law School, and author of the book *About Abortion: Terminating Pregnancy in the 21st Century*. She's going to take us through the general framework of abortion legislation in the US and how it's become what we see today.

Carol Sanger: Well, until 1973, the legality of abortion was up to the legislature of each state. Because if abortion isn't legal, it's a crime. And criminal law is part of state law. And people don't kind of grasp that. That's how we have -- you have to go back to the fact that it's a crime, and each state can decide what is criminal behavior. And that's how it was, I mean, into the 1970s. But starting in the 1960s, there became a movement to reform abortion law. And as women, mostly, were talking about reforming the laws, some said, why don't we just get rid of those laws? Why -- why are we interested in reform? And what the small groups who were working on this, said was, why don't we just legalize abortion? And so, there was a movement through many state legislatures to do that, or to do that in some form or other, and New York was one, California was an early one, Washington state. And they, in fact, were early to legalize abortion. Texas, had a criminal abortion state, and there turned up Jane Roe, whose name was

Norma McCovey. And she'd had -- she was pregnant. She'd had two children already. And she went to some women lawyers who said, can you help me I don't want to have another baby.

And so, they said, yeah, we can help you. And these women who just had graduated from University of Texas Law School put together the case, on the basis of privacy. They thought, where's there any protection in the Constitution? If we want to make this a right, the right to have an abortion. And they decided, well, an abortion is a decision that is so intimate, so personal. It's something that only the person involved in the decision should be able to decide.

But they followed a line of cases where decisions made about families, about child rearing, got elevated and got more protection. Like if you were going to have your child taken away from you by the state, you had to have a hearing. So, rights became attached to child bearing and child rearing. And that led kind of logically to the idea of also deciding whether to have a child or not. So that's how the Supreme Court heard the case and in a 7-2 decision said, we agree with them, the state has to have a very important reason to be involved in taking this decision away from the individual. And so that got us *Roe v. Wade*. This was immediately met with just shock by pro-life groups, who said, we never thought the Supreme Court would sell us out by selling out the fetus.

And the pro-life groups said, this is a true outrage. And our method for fixing it is going to be to amend the Constitution and pass an amendment that says the fetus is a human being under the Constitution. And if it could do that, under the Human Rights Amendment, it was generally called, then abortion would convert to murder, because we don't allow the killing of a person, but they couldn't get it through. Year after year, could not get it through, which is very interesting. But they said, okay, okay, we're losing this battle, we're going to try something else. We're going to legislate abortion to death. We're going to pass statute after statute making it more expensive to get an abortion, making it harder, making it emotionally more difficult, making it take longer, making it a more expensive process. And that's how we'll cut down on the number of women who will be able to have -- afford an abortion in any one of these senses. And that's what's been going on since '73.

We have to insert one more case. And the case came up 20 years after *Roe*, called *Casey v. Planned Parenthood*. And *Casey* was the case that everyone thought was going to be the overturn of *Roe*. Everyone thought we've got enough conservative judges on the Court now. Let's just stop this outrage that's been going on since 1973. It was about a bunch of abortion restrictions that had been enacted by Pennsylvania. Court hears the case and they say -- three conservative justices, Justice O'Connor, Souter, and Kennedy, said, you know, if we had been on the Court in 1973, we're not saying we would have voted for *Roe*. We don't know what we would have done. But -- but we're not on the Court then. We're on the Court now. And so now we are guided by a different set of rules. It's not like we get to decide *Roe* from the beginning. Instead, we get to decide should we follow the rule of *stare decisis*, which is if you have a case before you, you look for the previous case that was most like it, and you follow that rule unless there's some very, very good reason not to. And they said we don't see that there's a very, very good reason not to follow the rule of *Roe*. They said, people are used to *Roe*. They're used to relying on *Roe* if their -- their contraception doesn't work. There's nothing unworkable about it, we understand how this works. And so, they said, so we're not overturning *Roe*. However, they put a lot less emphasis on what they *did* do. And what they did was say, they didn't get everything

right in *Roe*. One of the things they got wrong was saying you couldn't touch the fetus, basically, until the third trimester, through legislation. And the *Casey* Court said, actually states may regulate against abortion from the moment of conception. Huge difference. This meant that the first trimester, the first 12 weeks, which were basically up to the woman and her doctor, and everyone else could just leave them alone, was no longer the case.

SRUTHI: What does history tell us about present day reality? For one, it shows why even though abortion has been decriminalized since 1973, it is still hard to get a procedure done. States continue to place restrictions on the right to access and abortion, for example, by imposing mandatory waiting times, requiring physicians to meet additional requirements and obliging consent from people other than the woman or person seeking to undergo the procedure. So that leads me to this question. I think that brings us all to this conversation in the first place. Why is abortion access important?

ANNA: Yeah, abortion access is important, it's because abortion access is healthcare. It's a human right. It's, it allows someone to kind of decide what they need and what they want, when to parent, when not to parent. How to parent, for that matter. We often say abortion bans are racist, classist and oppressive. And there's a reason for that, because abortion is healthcare and abortion bans are happening, people aren't able to access health care in the safest and best way possible, or even near their home. If you go to your gynecologist tomorrow and just get your annual checkup, no one's going to say that you can't do that and you should have traveled out of state for that, because that's an access point for healthcare. That's the same as abortion, it's just a medical procedure that you're doing and you shouldn't have to travel outside of the state to get it, right. Because if you do, then it's going to impact particular subsets of groups, those folks that are struggling to make ends meet, or can't just come up with a set of dollars to try to do it right. At FTC, so Fund Texas Choice, we don't do means testing, which some organizations do, but we choose not to. Because you could be earning \$70,000 a year, so you're not below the poverty guideline. But how do you come up with \$2,000 to leave the state, to then book a hotel, to fly, to find childcare last minute, that's so difficult. And even though you can afford your daily needs, you don't have \$2,000 set aside to do that. And so, it's why we kind of say they're racist and classist and oppressive, because they impact those that can't come up with the dollars to get there, and your zip code kind of shouldn't determine whether you can access abortion, and that's why it's so important, right? Because where you live shouldn't determine what healthcare you get access to.

SRUTHI: I think it's worth mentioning that during the oral arguments for *Dobbs v. Jackson*, Justice Sotomayor, in particular, comes close to talking about the consequences and abortion ban would have on women of color, and listen to what she asked Scott Stewart, the SOLicitor General of Mississippi, regarding women's lives.

Justice Sotomayor (clip): So, when does the life of a woman and putting her at risk enter the calculus? Meaning, right now, forcing women who are poor -- and that's 75 percent of the population and much higher percentage of those women in Mississippi who elect abortions before viability -- they are put at a tremendously greater risk of medical complications and ending their life, 14 times greater to give birth to a child full term, than it is to have an abortion before viability. And now the state is saying to these women, we can choose not only to

physically complicate your existence, put you at medical risk, make you poorer by the choice because we believe what?

LISE: To further prove the point Justice Sotomayor was making, research shows that African American women are three to four times more likely to die in pregnancy, compared to white women in the United States. Southern states such as Louisiana, Georgia, Mississippi, and Tennessee, exceed the national average of the maternal mortality rate. And on top of that, the racial disparity of the maternal mortality rates is even more prevalent in these States. And this is no coincidence. But the lingering remnants of slavery. After all, in each of these states, slavery and the slave trade used to be legal.

SOL: Now, in light of these numbers, I think it's worth mentioning something Professor Michele Goodwin, she's a professor of law and she has written extensively on reproductive rights, she wrote, and I quote: "Private reproductive bondage in these former slave states is now public. That is, where planters once controlled Black women's reproduction on their plantations and elsewhere, now the state controls what Black women (and others) may do with their bodies during pregnancy." close quote. Hence, why making it harder for women to legally terminate their pregnancies can literally be a matter of life and death for African American women, in particular. But that is not at all. In addition to the fact that African American women are at a higher risk to suffer death during pregnancy, researchers have also found that these women are up to four times more likely to suffer an early preterm birth. A possible explanation is that statistically, African American people have the highest poverty rate in the US. In general, people of low socioeconomic backgrounds have less access to available health services. And also I think it's worth pointing out that usually when you're in a condition of poverty, you're also exposed to more environmental risks, for example, like you're more exposed to lead, and just other dangerous environmental circumstances that are really intimately related to the environmental justice movement.

LISE: Thank you for pointing that out, Sol. Perhaps that's a good topic for another episode. But let's talk numbers. Who are the women who are undergoing an abortion? Despite representing only 12.9% of the population, African Americans accounted for 30% of the total abortions recorded in Texas in 2019.

SRUTHI: What is the significance of that, Lise?

LISE: Well, for one, it shows that Black person tend to undergo more abortions than persons of other races. On itself, this doesn't really tell us much. But when you place these numbers in context, it becomes much clearer. Because when you look at the wealth distribution in the state, you'll notice that the poverty rates among Blacks and Hispanics are among the highest in the state. While persons of those communities are also the ones undergoing abortions the most. Why do you think that is and how does race feature and we talk about access to abortion?

ANNA: Yeah, so I can speak really a lot about Texas and sort of nationally, too. But when I think about how Texas is, and Texas like, can be kind of like a microcosm of the United States, because such a large state in the US, but Texas' healthcare system has been kind of failing Black, Indigenous and other people of color for years. Long, kind of before SB-8, when you just think

about Black infants in Texas, they were twice as likely than white infants to die before their first birthday. That has nothing to do with abortion access, that just had to do with health care. Then we think about, we know that the national Black maternal mortality rate was 44 deaths per 100,000 live births in 2019, compared to 17.9 white deaths to the 100,000 live births. That is more than double the amount, which shows us that Black maternal mortality is at high risk in the nation. And if you just take that number nationally and apply it to states, that means it's also happening in Texas, right? That's not a fluke, that's a systemic failure. That is a systemic problem that we have, we have created in this nation. And so, there's reason to believe at the same or higher rate is in Texas.

For example, in 2018, Black people in Texas, are almost twice as likely as white people to die of preventable conditions, because they did not get the health care they needed. So, when you just think about health care as a whole, and abortion as health care, if folks can't access health care for their basic needs or chronic illnesses, the idea that if they're now unable to access abortion care could lead to actual other issues, especially when you when you tie that into maternal mortality. And we know that in our society, in the US specifically, the types of individuals that are in low income classes or low socioeconomic classes tend to identify as Black, Indigenous or other people of color. And that's by design. That is how systemic racism works.

And if you look back to Medicaid, and the Hyde Amendment, you -- and you listen to when the Hyde Amendment was passed, and you hear Representative Hyde speaking, he's like, well, rich, people are going to be able to access the care they want whatever they want, but we need to protect the poor babies. And you hear that language. And you're like, this is purposeful. This was made to protect white supremacy in the finest form, by impacting those folks that are already struggling. And in America, we've made sure the folks that are struggling are Black, Indigenous and other people of color, because we are a nation rooted in white supremacy.

LISE: Thank you for pointing out that this is a problem that is not individual, but it's systemic. Could you say more about the -- not the immediate harm --, because, obviously, we know that immediate harm is caused by not having the access to the procedure. But what are some of the long term effects on those communities that are now being limited in accessing healthcare?

ANNA: Yeah, so it has like a serious chilling effect, right? So, I can kind of just -- kind of paint the picture for a minute. And, Lise, you were right, when you said the immediate harm is not accessing abortion care, right. But if I'm an individual who's pregnant, and I want to access an abortion, but I can't, now I'm forced to carry this abortion to term. I may not have health insurance, which then further exacerbates the debt that I'm going to go into. Or now I have a child. And now I can't take care of that child, because that further exacerbates the poverty level that I'm in, or I put this child up for adoption or foster care. And say, I'm a person of color. We know in the in the United States that children of color are less likely to be adopted into families than our white children. And so, then you're now adding another child into the foster care system or the adoption system that cannot get actual care to parenting, and then is potentially part of another systemic issue in the foster care system that we know it was problematic.

So those are some chilling effects that now like one parent is facing, then you're thinking about like the larger term problems, right? If abortion access is not immediately accessible and safe

Texas, these Texans are -- or any other states -- are leaving to go into other states, and now you're seeing other constituents and residents of their states not being able to access care, even if abortion is legal in their states, because all the spots are being taken by other states' residents. And so now you're talking about moving millions of people across the nation, that's not sustainable, and that means people aren't just not accessing abortion, no one's accessing abortion. You're losing that kind of ability, right. And you hear other states passing, wanting to pass laws like this. So, you're going to see this kind of ripple effect and domino effect. And then you kind of see the impact of who's going to have to deal with the ramifications. And it's not going to be folks that are financially well off, it's going to be folks that can't afford what's happening to them. As I mentioned earlier, most of our clients are Black, Indigenous or other people of color. 70% of our clients actually identify as Black, Indigenous or other people of color, right. And so, then you are going to see folks trying to self-manage their abortion. And that could be problematic, because now you're going to lead to health-- it's going to lead to other health risks. And then you live in a society where technically *Roe* is the law of land still, but in practice, it's not, right. In many places, Texas is one of them. And could you imagine if now the entire South, and a lot of the Midwest, do not have access to abortion.

We can't sustain sending all the Texans that need access to care out of state, how are we going to send 20 plus states worth of residents who are able to get pregnant or are pregnant, out of -- out of their states to another part of the region to get care. It's just not sustainable. And that's why it's like even harder to think about and why bans like this are so harmful, and why it's kind of important to know the impact, because it undercuts kind of five decades long with the precedent. So, it's created a significant challenge for us, because now we're trying to navigate other burdens and barriers we've navigated before. But it's been easier if you're 50 miles away from a clinic, and more significant when you're so much further, and our clients are traveling on average 1100 miles roundtrip. So, when they're traveling that far, it's nearly impossible to get someone to the care and back the same day.

SRUTHI: Now, we've heard from ANNA throughout this episode, about how these laws have a disparate impact on persons of color. And more importantly, the larger implications this is going to have for society as a whole. There's something that Professor Michelle Goodwin said that I think, accurately captures this: "The abortion laws as they currently stand, create an environment of fear in which women no longer feel safe to voice their needs around their reproductive health. Having to suppress these needs, can weigh more people of color, who already have to deal with the daily stress of racism and other forms of oppression."

LISE: Yes, and I-- I think the numbers and statistics and testimonies prove that. Then again, at this point, I think part of what we do have to consider is what's next and what the Supreme Court will possibly determine. Professor Sanger talks to us about this.

CAROL: We don't know what they're going to do. That's the interesting thing. If they take away viability, which it seems like they're going to do, in the oral argument, they hardly said a word about viability. I mean, it was really interesting, but very worrisome. They weren't worried about only Justice -- Chief Justice Roberts did, but nobody else like picked up on the point. And are they gonna say, we can't make this decision. It's up to every state to make it. But they have to put in some point, or else a number of states will say, we have made abortion unconstitutional.

We've returned abortion to being a crime. There's no way that can be legal if there is some abortion, if *Roe v. Wade* stands for anything, but maybe they'll say that, like they did in *Lawrence v. Texas*, when they said *Bowers* was wrong when it was decided. And it was, it's wrong today. Maybe they'll say *Roe* was wrong when it was decided and wrong today, but there's certainly is not the kind of sociological proof that one would think would accompany that kind of statement. Gay rights advocates say they're gonna come after everything that's in that privacy line of cases. Because you take away *Roe*, you've taken away -- and they may well say privacy was just not a starter. Now, in terms of what other consequences there may be, I don't like to announce this as a consequence, because I have -- don't have faith in it. But maybe people will say, gee, we didn't know so much was on the line. We didn't know you were going to really take away abortion. We didn't know I'd have to travel. Take a three day trip to do this. Maybe it will cause a sentiment change in the population. That's one thing that might happen. People might say whoa, well, we made a big mistake. We want our reproductive rights back. But I think before that happens there will probably be some tinkering with contraception.

LISE: So, what are we waiting for now?

SRUTHI: Typically, the Supreme Court announces its decisions by the time it recesses at the end of June or the beginning of July, this will be in 2022. Rest assured that it will be one of the most consequential rulings in decades. For better or worse. Meanwhile, we have to find ways to prevent the whittling away at reproductive rights. Find new ways to advocate. Persist in our support for reproductive rights organizations. Publicize ways for women to keep accessing abortions. Here are some examples that Professor Sanger as well as Anna have given us in terms of what we can do to continue advocating for these rights.

Carol: There are two ways to go. One is to combat the immediate consequences like pay for women to go to states where they can have a safe and legal abortion. The other thing that people concerned about reproduction have to do now is work on voter suppression, and voter restrictions, and everything that gerrymandering -- all of that, those are reproductive issues now, and then you had the benefit, you help people vote on all issues, it may not feel like you're in the game, you know, you may -- I'm not working in reproduction. Well, you are. It's -- we all have to see how interconnected all these negative policies are. And so that's another one. Um, you go back to the familiar things like run for office, I have a student who's running for judge, she graduated from Columbia, maybe 10 years ago. And those are lifetime positions. So that matters.

ANNA: Yeah, and it's really important to kind of listen to the people on the ground, especially Black, Indigenous, and other people of color, and people doing the work. And there's been a lot of talk about this Underground Railroad in like news and Twitter and stuff. And it's really upsetting and frustrating because folks don't realize, using the term Underground Railroad is racist. And it diminishes and minimizes the work that Black women did long before. And folks that were enslaved did long before the work that these often white women are finding out are problematic now, right. And then the work that funds have been doing. So, listening to people on the ground is really important.

And then joining the existing infrastructure that funds and abortion providers have already created, whether that's signing up by supporting their newsletter, showing up to events to show

your support or sending a thank you, some folks need just support some folks need drivers. Some folks were like, hey, I can only take money, like that's all I can do you I can't have you volunteer, some folks just want you to show up and say you care. So, trying to listen to the infrastructures that are there and trying to engage with those groups is really important in making sure that you're not trying to reinvent the wheel that already exists, because dollars are few and far in between. And if someone else creates something else that's similar to the work we're doing, that just means we're fighting for the same dollar. And we've already created the infrastructure that's there. Pay attention to local politics is the other thing. These laws aren't being passed federally, they're being -- and nationally -- they're being passed in your backyard. And so, make sure you know what's happening in your own backyard, because that's going to dictate what's going to happen to you and the people you care about next to you and where they live for years to come.

LISE: Thank you for raising some of the examples of what we can do to help for this cause. Some of us feel very helpless in these times, so it's important to remind ourselves of what we can do. It's also important to give due consideration to the framework we are using when considering the contents and effects of reproductive rights laws. Who are these changes affecting? How? Critical Race Theory can be a valuable resource for this type of analysis. by asking ourselves how racism factor in these types of policy decisions, and if it's even being considered.

SOL: To that end, please visit our podcast page and check out some of the organizations that have been listed there. Provide your support in any way that you can, whether it's volunteering, donating money, whatever you can do. Their efforts, especially efforts of communities of color, of women of color in leadership, of organizations that are on the ground doing this work, need our backing. Most of all, please remember, if there's anything you take away from this podcast today, please remember that these laws do not have an equal effect. Like many things in the United States, under abortion regulations, people are not created equal. Thank you for listening to us today. And remember, like and follow. See you next time on CRT Workshop.