

Feminist Social Movements
Prof. Kathy Abrams
Spring 2025
Course Description

Instructor: Kathryn Abrams (Berkeley Law School)
Berkeley Law Building, North Addition 443
Email: krabrams@law.berkeley.edu

This course will survey recurrent dynamics of feminist social movements in the United States, while exploring in depth two contemporary social movements with ostensibly feminist agendas: the #MeToo Movement, and the movement to restore reproductive rights and advance reproductive justice after *Dobbs v. Jackson Women's Health Organization*. The primary focus of the course will be on disputes within feminist movements about how to combat sexual violence and reproductive restriction, although the movements, ideologies, and assumptions that work against feminist change in these areas will also be articulated and discussed.

The course will begin with a brief unit on feminist legal theories, exploring liberal (or “equality”) feminist theories that have emphasized equal opportunity and bodily and decisional autonomy, and dominance theories that have described sexualized injury as a vehicle for the production and maintenance of gender inequality. It will highlight critiques of both schools of feminist theory as “single-axis” theories that obscure or neglect the intersection of gender with race, class, sexuality, or immigration status.

We will then turn to the #MeToo movement, examining its use of online storytelling as a vehicle for exposure and solidarity, the largely extra-legal trajectory of its immediate consequences, and challenges that it has encountered over the long run, including: a "tactical freeze," or difficulty in translating the momentum of exposure into more systematic solutions; and a failure to reach from the comparatively elite contexts of entertainment and the professions to low-wage work (including agricultural, hospitality, and home-in care work) which problems of sexualized injury are also pervasive, labor is performed primarily by low-income women of color, including immigrants, which can increase barriers to reporting and resistance. In addition, such low-wage jobs themselves are subject to cultural understandings ranging from complacency in the face of “bad work” to the construction of paid labor as affectionate care that naturalize the subordination implicit in the work and complicate the recognition and remediation of sexualized violations. In the last portion of this unit, the course will interrogate the complicity of #MeToo and earlier feminist struggles against sexual violence in rise of mass incarceration, which has not only immiserated communities of color but imposed burdens and conflicts on the women of those communities.

Finally the course will study the movement for reproductive rights and justice that has emerged since the fall of Roe, particularly in abortion-restrictive states. It will examine the marginalization of low-income women, including many women of color that dates back to the abortion funding cases, and ask whether and how efforts to restore the abortion right can be built on a more inclusive foundation, that also centers the right to choose to have children and to raise those children in circumstances of dignity, safety, and material sufficiency, and to access broader

rights of bodily autonomy. Consistent with this goal, we will ask how the mainstream impetus toward a singular focus on abortion – which reflects a very real concern with the harms inflicted on pregnant persons in abortion restrictive states -- may fuel or detract from a broader agenda of reproductive justice, that highlights the latter issues and connects reproductive oppression to larger structures of racism, income inequality, and re-emergent anti-LGBT politics.

The course will also have an "applied" component. Working in small, assigned groups, students will conduct a research project that investigates how these ideas play out in actual social movement organizations. In the first two or three weeks of the course, students will identify particular Bay Area organizations that play a role in reproductive rights or justice, or in preventing or addressing sexual harassment and sexual violence. Students will provide the names of these organizations to me, and I will do outreach to confirm that the organizations identified are willing to participate in our research projects. During this time students will also be responsible for brainstorming the questions they would ask a leader of such groups to better understand their aspirations, how, concretely, their organization functions; and what challenges they have faced in trying to achieve their goals. After I finalize a group of community partner organizations, these small groups of students will be assigned to work with participant organizations. Students will research their programs, visit where possible to observe their operations, and finally, conduct an interview a member or members of their staffs, in which they ask versions of their formulated questions that they have tailored to the specific organization to which they have been assigned. Through these efforts students will come to understand their organization's agenda, its structure and operation, and the strategies and campaigns through which it advances that agenda. As you work on this assignment, there will be in-class discussions (during in the final hour of class) that focus on the functioning, resources, strategies/tactics, challenges and assessment of social movement organizations. These discussions may draw, where necessary, on additional readings.

After completing the research for this project, each student group will make a class presentation of roughly 20 minutes on their organization, during the final week of the semester. This will allow each group of students to discuss what they have learned, and will allow other students to learn about groups in addition to their own. Then each person (individually, not with other group members) will write a final paper in which they discuss what they have learned about their organization in relation to the themes articulate in the readings and discussion for the classroom portion of the course.

Course credit will be allocated as follows:

Class Participation (attendance and participation in discussions): 10%
Reading responses (2 2 pp. papers responding to readings for the week): 10%
Research Project and group presentation: 40%
Final Paper: 40%

Course Topics and Readings

[Note: readings in red were not included in the S24 syllabus but will be included in the S25 syllabus.]

January 22

Class #1 – Feminist Theory: Liberal Feminism or Equality Theory

Liberal feminism or “equality” theory was the first theory to be advanced by legal scholars and advocates arguing for sex or gender equality. Among the ways in which women were theorized as the equal to men (in the late 1960s and early 1970s, gender was conceived by legal advocates as binary) was their capacity to engage in the “public” world of politics and the market -- as compared to the private sphere of the home, to which white, middle-class women had often been legally and social confined. Ruth Bader Ginsburg, who advanced this vision first as an appellate advocate and ultimately as justice of the Supreme Court, was one of its best-known proponents. One ambiguity about this claim was whether it was grounded in a view of women’s essential similarity to men (in all respects necessary for employment and public engagement), or whether it was grounded in a view of women, whatever might be their differences, as capable of and entitled to decisional autonomy, and the full range of choices about their life course. This latter understanding contributed to the basis for the right to reproductive autonomy, encompassed in cases on birth control and abortion.

As you read, consider:

- If women earn access to institutions and opportunities through their comparison with men, how should the law respond to their distinctive capacity for childbearing, or to their widespread subjection to sexual violence, neither of which has evident male comparators?
- When we assume that women are essentially similar to men, do we have particular women in mind? Does this approach privilege those women whose life histories (including race, class, sexuality, education, and more) are most similar to men whose participation has defined the market and politics?
- When we assume that women are essentially similar to men, does this leave unexamined structures and practices (in those institutions to which they gain access) that were designed by men for men – ie, without women in mind?
- Does a belief in or commitment to women’s autonomy provide a secure foundation for a right to abortion?

Readings:

- Martha Chamallas, **Introduction to Feminist Legal Theory** 23-38, 39-44, 53-62 (2003)
- David Cole, *Strategies of Difference: Litigating for Women’s Rights in a Man’s World*, 2 *L & Ineq.* 33 (1984), pp. 53-65
- Margaret Montoya, *Mascaras, Trenzas, y Greñas: Unmasking the Self While Unbraiding Latina Stories and Legal Discourse*, 15 *Chicana/o Latina/o Law Review* 1 (1994).

January 29

Class #2 – Feminist Theory: Dominance Feminism

Dominance theory, introduced by legal theorist and advocate Catharine MacKinnon, argues that gender inequality arises not from a cognitive error -- that is, the treatment of women as different when they are similar or equal – but from the imposition of male power through sexualization and sexual violence. Sexual violence not only prevents women from achieving equality in society, it shapes public conceptions of women (including the ways women think of themselves). This complicates strategies of resistance and requires intervention by the law. One example of such intervention is the claim for sexual harassment, pioneered by MacKinnon and accepted (albeit in domesticated form) by the federal courts. Dominance theory, even more than equality theory, has been the focus of critique by critical race feminists, who argue that its focus on male-on-female sexual coercion fails to take account of the qualitatively different dynamics produced by the intersection of gender with other structures of oppression such as race and class.

These readings raise questions such as:

- Does a vision of gender (and women) as formed through sexual violence deny the agency that women exercise in their lives, including under circumstances of sexual coercion? Or do women “want to think we already have equality more than we want to have it”?
- Is MacKinnon’s view of sexual violence based on assumptions that suggest that it is grounded in the experience of white women? In what ways would it change her view of inequality through sexual coercion to take the patterns of sexual violence and legal de-legitimation that have faced Black women as paradigmatic?
- Are both feminism and anti-racism “single-axis” theories that fail to ask how their focal characteristic (gender for feminism, race for anti-racism) might intersect with others, producing distinct patterns or practices of discrimination?

Readings:

- Catharine MacKinnon, *Difference and Dominance: On Sex Discrimination, and Afterword in **Feminism Unmodified*** (1987). [32-45, 215-28]
- Catherine MacKinnon, *The Sexual Harassment of Working Women* 25-56 a(1979).
- Angela Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581, **581-601**(1990).
- Kimberle Crenshaw, *Whose Story Is It, Anyway? Feminist and Antiracist Appropriations of Anita Hill*, in Toni Morrison, ed., **Race-ing Justice, Engendering Power** (1992).

February 5

Class #3 - #MeToo: Movement or Moment?

The #MeToo movement provided a wake-up call to a culture and legal system that – despite the claim for sexual harassment and decades of rape law reform – had become quiescent about the continuing subordination of women in the workplace and elsewhere through the imposition of

sexualized power. The “Me Too” movement, initiated by Tarana Burke as a face-to-face movement of women of color to empower each other in the effort to heal from sexual violence, claimed global attention when women and other survivors, incited by white actress Alyssa Milano, began revealing instances of sexualized coercion in the workplace under the hashtag #metoo. This movement generated online solidarity among those who had previously been silent, and resulted in sometimes-successful public pressure on employers, advertisers, and investors to take action against the perpetrators whose acts had been revealed.

As you read, consider the following questions:

- Were there differences the movement started by Tarana Burke and the one ignited by Alyssa Milano’s tweet? Does the inadvertent appropriation of the name of Burke’s movement or the viral response to Milano’s tweet shed light on the women who drove the later movement and their relative power?
- What were the factors that distinguished #MeToo from earlier efforts to combat sexual violence and sexual harassment through law?
- What were the patterns or institutional structures that characterized or facilitated sexual coercion by Harvey Weinstein? How prominent were such patterns and structures in online #MeToo accounts?
- Is MacKinnon correct about the “tectonic shifts” in sexual culture produced by #MeToo, or does the “himpathy” extended to Brett Kavanaugh or the online abuse directed at Amber Heard suggest that the story of #metoo is at least partly the one of movement and backlash that MacKinnon disclaims?

Readings:

- Tarana Burke, MeToo is a Movement, Not a Moment, TED Talk, November 2018, https://www.ted.com/talks/tarana_burke_me_too_is_a_movement_not_a_moment?language=en
- Ronan Farrow, From Aggressive Overtures to Sexual Assault: Harvey Weinstein’s Accusers Tell Their Stories, *The New Yorker*, October 23, 2017.
- Jamillah Bowman Williams, Lisa Singh & Naomi Mezey, #MeToo as a Catalyst: A Glimpse into 21st Century Activism, 2019 *U of Chicago L. Forum* 371.
- **Kate Manne, Brett Kavanaugh and America’s “Himpathy” Reckoning, *NY Times*, September 26, 2018, <https://www.nytimes.com/2018/09/26/opinion/brett-kavanaugh-hearing-himpathy.html>**
- **Michelle Goldberg, Amber Heard and the Death of #MeToo, *NY Times*, May 18, 2022, <https://www.nytimes.com/2022/05/18/opinion/amber-heard-metoo.html>**
- **Catharine MacKinnon, Where #MeToo Came From, and Where It’s Going, *The Atlantic*, March 24, 2019, <https://www.theatlantic.com/ideas/archive/2019/03/catharine-mackinnon-what-metoo-has-changed/585313/>**

February 12

Class #4 - #MeToo, Race, Class and Migration: Farmworkers

The #MeToo movement succeeded in capturing public attention and reviving debates about sexualized coercion. However, its energies did not translate smoothly into legal or institutional remedies. The remainder of this unit examines those shortfalls. This week's readings introduce two broad problems: the "tactical freeze," in which a social movement, particularly one that ignites resistance and public consciousness-raising through online activism, stalls when it transitions to the phase of demanding institutional or legal remedies; and the failure of a movement based primarily on the exposure of abuses in the entertainment industry and the professions to extend its reach to low-wage work performed primarily by lower-income women of color. The readings examine this second failure in the context of farm work, in which structural problems arising from the site and organization of such labor, and the racial, economic, and immigration status of its labor force, combine to foster sexual exploitation and to thwart resistance. The readings also compare the efforts of legal advocates and grass-roots organizers to address these problems.

As you read, ask yourself:

- Why do online social movements sometimes encounter a moment of "tactical freeze" and what factors made this a problem for #metoo?
- In what ways did the movement, both in its online phase and its efforts at on-the-ground remedies, fail to speak to issues of sexual coercion most pressing to women of color?
- What features of farmwork, as a setting for labor, make women workers particularly vulnerable to sexual abuse?
- What aspects of the identities or life histories of women farmworkers make it difficult for them to report or otherwise speak out about such abuse?
- What are the benefits and drawbacks of litigation, on the one hand, and farmerworker organizing, on the other, as strategies for addressing sexual violence in agricultural settings?

Readings:

- Zeynep Tufekci, *Twitter and Tear Gas* 60-82 (2016) [on the problem of "tactical freeze" in (online) social movements]
- *Maximizing #MeToo: Intersectionality and the Movement*, 62 *Boston College Law Review* 1797, 1841-51 (2021).
- *Open Letter from Alianza Nacional de Campesinas, Latino USA*, November 15, 2017.
- Bernice Yeung, *In a Day's Work: The Fight to End Sexual Harassment Among America's Most Vulnerable Workers* (2018), Ch 2 ("The Open Secret").
- "We Can Figure Out How Best to Help Them": *Organization Working to Stop Sexual Harassment Against Farmworkers*, *kivitv.com* (Idaho), October 13, 2021.

February 19

No Class – President's Day

February 26

Class #5 - #MeToo, Race, Class, and Migration: Hospitality and Home Health Care Workers

This week's readings explore two additional categories of employment in which pervasive problems of sexualized coercion remain unaddressed by the mainstream #metoo movement. These sites are similar to farm work in that their work forces are predominantly low-income women of color, including many with non-citizen immigration statuses; but they are also characterized by distinctive structural and cultural problems. In the hospitality industry, sexual harassment and other misconduct is often perpetrated by customers (who are largely outside legal constraints) as well as supervisors; in the hotel industry, the physical isolation and lack of supervision that characterize the work, and the confluence of employee's work spaces with customer's living spaces creates distinctive, disempowering dynamics. The home health care context adds the complications produced by the often-intimate care relationship between providers and clients. In both contexts sexual and coercive dynamics are often shrugged off by employers or the public as a predictable feature of work at bottom of the pay and status scale ("bad work"). These problems may also be minimized because expectation of care and/or hospitality, notwithstanding sexualized treatment, is naturalized as a quality of the women who predominate among workers.

Questions raised by the readings include:

- Both hospitality (restaurant and hotel) work and in-home health care share the feature that employees can be harassed or sexually assaulted both by managers and by customers/clients. What features of each workplace (including site, supervision, and pay structure) can make women employees vulnerable to customers or clients in each setting?
- How do the difficult or unpleasant features of labor in these contexts, or their reputation as "bad" or undesirable work make it difficult to disaggregate (for the public) or resist (for the workers) sexualized abuse?
- How does the naturalization of care as an attribute of women (in both their private and their work lives) make it difficult for women to see or speak out against sexualized abuse, particularly from customers and clients?

Readings:

- Saru Jayaraman, *Behind the Kitchen Door* (2013) [pp. 69-72 and Ch 6]
- Irene Plangeanos and Kitty Greenwald, *Mario Battali Steps Away from Restaurant Empire Following Sexual Harassment Allegations*, *eater.com*, December 11, 2017
- Emma Goldberg, *Is This the End of Tipping*, *New York Times*, February 21, 2021
- Alexia Fernandez Campbell, *How a Button Became One of the Greatest #MeToo Victories*, *Vox.com*, October 1, 2019
- Julia Jacobs, *Hotels See Panic Buttons as a #MeToo Solution for Workers. Guest Bans? Not So Fast*, *New York Times*, November 11, 2018
- Ai-Jen Poo, *The Age of Dignity* (2015) [Ch 3 "The Caring Professionals"]
- Emily Peck, *When Your Abuser is Also Your Patient*, *huffpost.com*, June 2, 2018
- National Domestic Workers' Alliance, *Summary of the National Domestic Workers Bill of Rights*

March 4

Class #6 - #MeToo and the Carceral System

Has a feminist focus on greater enforcement against sexualized injury – a pattern intensified by #MeToo – led to punitive or carceral solutions? Feminist in the late 20th century turned to criminal legal enforcement as an answer to sexual and intimate violence. And while the #MeToo movement played out predominantly in the “court of public opinion,” it also found expression in several prominent criminal trials, including those of Harvey Weinstein and R Kelly. This week’s readings examine #MeToo’s effects on a carceral system that has disproportionately harmed Black and other communities of color. It investigates alternative remedial strategies from collective action to restorative justice to abolition.

As you read, consider the following questions:

- In what ways has the feminist movement against sexual violence been implicated in the national turn toward criminal solutions to violence and mass incarceration?
- In what ways does the criminal justice system disserve women of color or people who are gender non-conforming, including survivors of sexual violence?
- In what ways can community-based solutions such as those advocated by Leigh Goodmark or Critical Resistance play a role in combatting sexual violence?

Readings:

- Aya Gruber, *The Feminist War on Crime* 41-66 (2020)
- Kimberle Crenshaw et al, *Say Her Name: Resisting Police Violence Against Black Women*
- Jo Hsu, (Trans)Forming #MeToo: Toward a Networked Response to Gender Violence, *42 Women’s Studies in Communication* 269, 269-75 (2019)
- Leigh Goodmark, *Decriminalizing Domestic Violence* 121-55 (2018)
- *Critical Resistance, “From Critical Resistance to a New Way of Life” [film – Pt 1]*

March 11

Class #7 – Dobbs and The New Abortion Landscape

This week begins our study of movements for reproductive rights and justice. We begin by analyzing the constitutional protection for abortion created by *Roe v. Wade*, and the fragility of a regime based on due process claims of privacy or autonomy. The readings then survey the transformations produced by the overruling of *Roe* in *Dobbs*: the patchwork of highly disparate regulation produced by the states; the effects on birthing people seeking abortions or care for complications of pregnancy, and on the incidence of abortion.

As you read, ask yourself the following questions:

- Why does Justice Ginsburg believe both that the Court went too far in its holding in *Roe*, and that this holding was conceptually incomplete? Do you agree with these critiques – particularly with her claim that abortion is not simply an expression of women’s autonomy but is also foundational to their equal citizenship and sociopolitical participation?

- In what ways, and with what justification does the Court depart from Roe in Dobbs? How do you assess those justifications, and the Court claim (toward the very end of the opinion) that there is no “concrete reliance” by women or others on half a century of protection of reproductive choice?
- What post-Dobbs changes in reproductive care, as reported in the Vox and Guttmacher articles, are most striking to you? How have restrictions on abortion affected other (ie, non-abortion) dimensions of reproductive care?

Readings:

- Roe v. Wade, 410 U.S. 113 (1973) [excerpted]
- Ruth Bader Ginsburg, Some Thoughts on Autonomy and Equality in Relation to Roe v. Wade, 63 North Carolina Law Review 375, 380-86 (1985)
- Dobbs v. Jackson Women’s Health Organization, 597 U.S. __ (2022) [excerpted]
- Nichole Narea, *What Two Years Without Roe Looks Like, In Eight Charts*, vox.com, June 24, 2024. <https://www.vox.com/explainers/356314/abortion-laws-roe-wade-dobbs-decision-mifepristone-supreme-court>
- Guttmacher Institute
 - State Abortion Policy Landscape One Year Post-Roe (June 16, 2023);
 - *Despite Bans, Number of Abortions in US Increased (March 2024)*; <https://www.guttmacher.org/2024/03/despite-bans-number-abortions-united-states-increased-2023>
 - *Monthly Abortion Provision Study with Interstate Travel*, <https://www.guttmacher.org/monthly-abortion-provision-study#interstate-travel>

March 18

Class #9 – From Reproductive Rights to Reproductive Justice

The struggle to protect reproductive rights in the courts grew up alongside a less-publicized, but more ambitious effort to achieve reproductive justice. This effort recognized a right to choose to have children or not to have children, and to raise those children with dignity, safety, and material sufficiency. This broader vision was pioneered not by lawyers in courts, but by Black women and other women of color working in their communities, sometimes drawing support from the contemporaneous work of Black feminist scholars. Reproductive justice recognizes the intersection of reproductive oppression with oppression on the basis of race, class, sexuality, immigration status and disability. Specifically, it has challenged a Roe-era reproductive rights movement that marginalized the voices and experiences of women of color, and analyzed abortion in isolation from racialized patterns of reproductive oppression such as coerced sterilization or birth control, disparate treatment of Black birthing people, and the separation of families through “child welfare” systems.

The readings should enable you to answer the following questions:

- How does the Court in Harris argue that a right to abortion does not include a right to funding for that procedure if one is indigent? On what kind of denial of governmental

- responsibility does this argument rest? What does this decision mean for the limits of the Roe regime?
- On whom do abortion restrictions like the one discussed in June Medical bear most heavily? For what reasons?
 - What is reproductive justice? What kinds of efforts or focus by what kinds of actors does it entail? How does it go beyond the right to abortion?
 - What stereotyped images of Black women as unfit mothers have shaped and continue to shape discourse and policy decisions in the US?

Readings:

- Harris v. McRae, 448 U.S. 297 (1980)
- Khiara Bridges, Brief Amicus Curiae in June Medical Services v. Russo (2020)
- Loretta Ross & Sister Song, What is Reproductive Justice? Reproductive Justice Briefing Book, pp. 4-6
- Asian Communities for Reproductive Justice, A New Vision for Reproductive Justice 1-10 (2006), <https://forwardtogether.org/tools/a-new-vision/>
- Norwood and Carr, More than Abortion: Why Reproductive Justice Matters in Cincinnati, 45 J of Women, Politics & Policy 1 (2024)
- Dorothy Roberts, Killing the Black Body 3-21 (1997)

March 25 – spring break

April 1

Class #10 – Criminalization of Pregnancy and the Outcomes of Pregnancy

This week’s readings examine the role of the criminal law system, itself critiqued as racially disparate in its enforcement practices and effects, in policing pregnancy, and the outcomes of pregnancy, including abortion, miscarriage, stillbirth, and live birth. Notably, few of the laws used to impose criminal penalties target pregnancy or abortion seekers per se; rather they target behavior from drug use or other forms of “chemical endangerment” to concealing, abandoning, or mishandling of a body. These laws may be triggered by reports from medical or social services professionals when pregnant persons present themselves for treatment; they have been disproportionately imposed on those who are young, reliant on social services, or members of communities of color. Patterns of criminal enforcement may, however, be exacerbated by “fetal personhood” statutes proliferating in the wake of Dobbs. Finally, the readings consider constraints on the reproductive rights and health of those who are already system-involved, including those who are incarcerated, on parole, or facing immigration enforcement.

As you read, consider the following questions:

- What kinds of laws have been utilized by the states to criminalize pregnancy and the results of pregnancy, even before Roe?
- What is the concept of “fetal personhood”? How do we see it reflected in law? How has the repeal of Roe enhanced the power of claims for fetal personhood?
- What groups are particularly vulnerable to pregnancy criminalization? Why?
- How is the end of Roe likely to exacerbate criminalization and impose particular burdens on those pregnant persons already within the criminal justice system or

within other systems of quasi-criminal surveillance (including those in jails, those on parole, and immigrants)? What kinds of policies might mitigate these threats?

Readings:

- Michelle Goodwin, Policing the Womb: Invisible Women and the Criminalization of Motherhood 28-45 (2020)
- Pregnancy Justice, Criminalization of Pregnancy – Report (2023), Executive Summary and pp. 18-52.
- NorCal ACLU Gender, Sexuality and Reproductive Justice Project, Reproductive Health Behind Bars in California (2016)
- Dobbs and Carceral Constraint – Media articles
 - NorCal ACLU, Imprisoned for a Stillbirth: Pregnancy Criminalization, California, and Reproductive Justice Post Roe, November 9, 2022
 - Joshua Sharfstein, Jailed and Pregnant: What the Roe Repeal Means for Incarcerated People, from Public Health on Call (podcast), August 26, 2022
 - Kate Weisburd, Women in Prison and Under Court Surveillance Will Suffer Under New Abortion Bans, LA Times, July 5, 2022
 - Asees Bhasin, Dobbs v. Jackson Women’s Health and its Devastating Consequences for Immigrants’ Rights, September 27, 2022, <https://blog.petrieflom.law.harvard.edu/2022/09/27/dobbs-immigrant-rights>

April 8

Class #11 – Birth Justice and Disparate Birthing Outcomes

This week’s readings examine the disparities in care that affect birthing people of color who choose to carry pregnancies to term. These include the greater surveillance of those who are young or receive public assistance, and the racial bias and structural barriers to health care that have produced sharp disparities in maternal mortality. This week’s materials also include a study of doula care as a means of improving the birth outcomes of Black women, and a PBS documentary highlighting efforts among women of color– from doula-run “birthing villages” to the training of parent-educators, to the development of pilot OB/GYN programs run by Black medical practitioners – to address race-related birthing disparities.

This week’s readings raise the following questions:

- How can programs intended to benefit low-income women of color become vehicles for surveillance and discipline? What might be done to mitigate these effects?
- What are the factors that contribute to racial disparities in maternal mortality?
- What kinds of interventions hold promise for mitigating a history of conscious and unconscious racism that has affected obstetric and other medical care? What may be the benefits provided by doulas and midwives? By parent educators?
- How might the race of an obstetrical doctor make a difference in patient outcomes and experience? Can the practices employed by Ob/gyns of color in serving women in their communities be communicated to other doctors?

Readings:

- Khiara Bridges, *Reproducing Race: An Ethnography of Pregnancy as a Site of Racialization* (2011), portions of chapters 2-4
- Khiara Bridges, *Racial Disparities in Maternal Mortality*, 95 *N.Y.U. L. Rev.* 1229 (2020), pp. 1248-86
- **Mottl-Santiago et al., *Effectiveness of an Enhanced Community Doula Intervention In a Safety-Net Setting: A Randomized Controlled Trial*, 7 *Health Equity* 466-76 (2023) [excerpted]**
- PBS, *Birthing Justice* (documentary, 2023) [link on bcourses]

April 15

Class #12 - Family Policing and the Right to Raise Children

This week's readings focus on the final pillar of reproductive justice: the right to raise children with dignity and sufficiency. They highlight the critique of the family policing (more conventionally known as child welfare) system as disproportionately separating and destroying Black families. They then turn to the question of remedies, examining more narrowly targeted family defense programs, and broader abolitionist solutions.

As you read, consider the following questions:

- Can you identify parallels between the surveillance of parenting established by the family policing system and surveillance of pregnancy implemented through prenatal programs for women on Medicaid analyzed by Khiara Bridges?
- In what ways does the family policing system reflect assumptions about low-income Black mothers as unfit parents? In what ways does it violate understandings of family privacy that white mothers take for granted?
- In what ways does the system conflate poverty with neglect?
- How do activists and lawyers, like Joyce McMillan and Shanti Trivedi, work to defend families within the current family policing system, as well as work to change it?
- What are the benefits and drawbacks of a comprehensive reform system, such as the approach advocated in the Family Justice Summit Report? How do they compare with the benefits and the drawbacks of the abolitionist approach advocated by Dorothy Roberts?

Readings:

- Dorothy Roberts, *Torn Apart: How the Welfare System Destroys Black Families and How Abolition Can Build a Safer World*, 13-21, 33-46, 63-82, 277-303 (2022)
- **Family Justice Summit Report (Executive Summary pp. 1-15), <https://ucsf.app.box.com/s/xvaeg2ikwgd4hltqwl6mi59tcfiim9n8>**
- UpEnd, *The Carceral Logic of Family Policing*
- The UpEnd podcast, Episode 5: Family Defenders (with community activist Joyce McMillan and lawyer Shanti Trivedi) <https://upendmovement.org/podcast/>

April 22

Class #13 – Class Presentations on Community Organization Project

Additional Class – Restoring Abortion through the Initiative Petition

[Note: this year, my class fell on President's Day, so I taught one less class than I had planned. If I am not teaching on Mondays next year, I will teach this class on the initiative petition (although I will need to update it slightly to account for the additional ballot elections in November – this version focused on Ohio, which held its election in 2023). It will come between the first week on abortion and the week introducing reproductive justice.]

Since the fall of Roe, the most successful vehicle for the re-establishment of abortion rights has been initiative petitions, which place before voters measures amending state constitutions to include a right to abortion. These initiatives, while not available in all abortion-restrictive states, have triumphed in some surprising places, including states such as Kansas, Michigan, and Ohio. This week's readings examine the successful ballot initiative campaign in Ohio. The myriad efforts of state legislative and executive officials to thwart such initiative petitions, as well as the voter restrictions that have been adopted in many abortion-ban states, raise the question whether Dobbs, as Justice Alito alleged, actually returned the question of abortion to the democratic processes of the states. The readings also raise question about whether ballot initiatives entail problems as well as opportunities.

Consider, as you read:

- Why have ballot elections (initiated by voters) to place abortion protections in the state constitutions of abortion-restrictive states been so successful thus far?
- How has their reception by the governments of “red” states raised questions about whether Dobbs actually returns abortion to state democratic processes?
- What do you see as the strongest arguments for and against ballot issues as an answer to abortion restriction? In what contexts are they most likely to succeed or fail?

Readings:

- Emily Bazelon, The Surprising Places Where Abortion Is on the Ballot and Winning, New York Times, September 12, 2023
- Ohioans United for Reproductive Rights, The Right to Reproductive Freedom with Protections for Health and Safety [Ohio, Issue 1, 2023]
- Alice Clapman and Yuriy Rudensky, A Brazen Challenge to Democracy in Ohio, Brennan Center, August 3, 2023
- **Kate Zernike, Ohio Continues a Winning Streak for Abortion Rights, NY Times, November 7, 2023, <https://www.nytimes.com/2023/11/07/us/politics/ohio-abortion-amendment.html>**
- Melissa Murray, Children of Men: The Roberts Court's Jurisprudence of Masculinity, 60 Houston Law Review 799 (2023), pp. 858-63.
- **Kathryn Abrams, Lawyers on the Post-Dobbs Landscape: The Case of the Ballot Initiative (manuscript, July 2024).**

