The Ongoing Struggle for Abortion Rights

The U.S. Supreme Court’s 5-3 decision overturning Texas’ onerous rules for abortion clinics blocked one line of attack used by anti-abortion activists to restrict women’s access to the procedure, reports Dennis J Bernstein.

By Dennis J Bernstein

The decision by the Supreme Court on Monday to strike down Texas’ controversial abortion restrictions is arguably the most significant ruling regarding women’s rights and reproductive freedom since Roe v. Wade.

After the 5-3 ruling, reproductive justice activist Renee Bracey Sherman, a key organizer in the struggle, spoke with Flashpoints host Dennis J Bernstein about her reaction to the decision, the significance of the victory, and the uphill battle women still face in protecting their right to choose.

Sherman is author of Saying Abortion Aloud: Research and Recommendations for Public Abortion Storytellers and Organizations and co-author of Speak Up and Stay Safe, a multilingual digital guide on handling online harassment.

Dennis Bernstein: This is one day you can take a moment and celebrate a very hard fought victory, a major victory, you say, for reproductive rights. What is your initial reaction to the court’s decision?

Renee Bracey Sherman: I am elated, still feeling so excited. It’s been such a whirlwind of a day. I was standing on the stage when the decision came down. We were looking out at the crowd; people were dancing, and waiting for the decision to come down. We were in front of the Supreme Court in Washington DC. The anti-choice folks had their rally on the right side, and we had ours on the left side of the Supreme Court. I was standing on the stage with abortion providers and people who had abortions, including myself. Other advocates were making speeches.

I was looking out into the sea of people, and then a huge cheer erupted from the crowd. It was such a moment that my heart skipped a beat. I started crying because abortion restrictions have been passed in states ever since the Roe v Wade decision and the Planned Parenthood v. Casey decision in the 90’s. There’s been an erosion of abortion access for so long, that to finally have such a huge win meant so much. I cannot express how victorious we feel right now.

DB: Were you surprised?

RS: We always knew we probably would come out on top. The anti-choice side had
no evidence about why these restrictions were necessary. HB 2 was a law that was passed “to help with women’s health care and to make sure abortion clinics were safe,” but it ignored basic facts, which is that abortion is one of the safest medical procedures, ever. The regulatory standard that they were bringing abortion clinics up to was basically like a mini-hospital [and] were extremely medically unnecessary.

The American Medical Association came out against these restrictions. It regulated pointless things like janitor closets and being sure you had sex segregated dressing rooms – all things that are completely unnecessary to the medical procedure itself. We are glad the court saw through that and saw that abortion is a safe medical procedure and none of that was necessary.

DB: Remind us of how bad it would have been for women if the Supreme Court went the other way.

RS: The law already had extremely devastating impacts that it will probably take years to recover from. Before the HB 2 law was passed, Texas had 41 abortion clinics. If the law had gone into effect, there would have been less than 9. That is very scary for the second largest state in the country.

If the law had been upheld, it would have had a ripple effect across the nation. We have so many states, like Mississippi, Missouri and Louisiana that have only one or two abortion clinics for an entire state. We cannot have that replicated across the country because it’s a public health crisis. The court saw this law was a sham and it would have an extreme undue burden on the ability of somebody to access abortion care. So they ruled that it was unconstitutional.

The state of Texas felt that if they got rid of abortion clinics, it would make abortion safer. We know from research of the University of Texas and the Texas Evaluation Project that people try self-induced abortions at a higher rate when they are unable to access clinics and are taking matters into their own hands. It’s actually doing the exact opposite of what anti-choice people say they are trying to do, which was protect women’s health.

DB: This came down against the vicious, brutal, draconian, anti-woman, anti-choice statutes and laws being forced into place in Texas. Many people are saying this is one of the most important decisions since Roe v Wade. How bad is the situation in terms of getting an abortion, which is legal under the law?

RS: It depends on where you live. Some states are working to increase abortion access, like California, where they are making sure that more medical professionals are able to provide abortion. Again, that depends on which parts of California you live in. There are parts across the southeast of the US, like
Mississippi, Alabama and Georgia, where all of these restrictions are being passed quickly. People are having a very difficult time finding a clinic.

When I had my abortion at 19, I was lucky. My story is rare these days. My abortion clinic was only 15 minutes from my house and I had a credit card I could max out. I work at the National Network of Abortion Funds where our member funds help people pay for their abortion if they can’t afford it. We often hear people calling in saying they have to skip meals to pay for their abortion, or the nearest clinic is hundreds of miles away, so they need to miss work, unpaid. They need to figure out how to sometimes leave the state and fly to a clinic in another state because that’s the closest one. It’s creating a patchwork of access across this country.

For me, as a Black woman, it’s very hard to see, because I see it as a map of where it overlaps with where low income and Black folks live. Where abortion access is dwindling across the southeast is where the majority of Black folks are living. So we’re creating a patchwork of health care across the country and leaving people of color and people of low incomes without access to a fundamental human right, which is abortion care.

DB: Those people would have been most dynamically affected if the people lost the right to abortion in court, which is what people in Texas wanted. Your group provided an amicus friend of the court brief in support of Whole Woman’s Health, the plaintiff in the case. Share some of what you told the court.

RS: We wanted to make sure the voices of those most affected, and those having abortions, were heard by the court. Many organizations submitted briefs for a variety of reasons. I submitted my abortion story as part of one with advocates for youth who said access to an abortion made a real difference in their life.

My organization, the National Network of Abortion Funds, submitted one about the economic impact abortion has on people. I interviewed six women who called Abortion Funds in Ohio and Texas, talking about how difficult it was for them to obtain an abortion. There are waiting periods making it difficult to get time off from work so they could go for multiple appointments.

Quite a few states across the country, like Ohio and Texas, have waiting periods where it forces you to come in for two appointments for an abortion instead of just one. For folks who are earning low incomes or hourly wages, that’s two times they need to take off from work for healthcare, often unpaid. This is having a double effect on them. [And] there is a mental impact of having to walk past protesters.

One woman we interviewed, Tiffany, was 31, a Latina and mom of one daughter. She
said when she became pregnant she felt like there was no way she could raise another child, so felt an abortion was the best decision for her. But she had such a hard time saving up money so she could afford the abortion that she would leave her daughter in the grandmother’s home to be fed so she could save money for her abortion. It’s heartbreaking that we live in a country where we have a fundamental right to abortion care yet healthcare-abortion care is so inaccessible. It depends on the size of your wallet and where you live.

We wanted the court to hear the power and how much these women pushed to make sure they could get abortions, but it shouldn't have been so difficult. We wanted the court to understand that the states are creating barriers that are unnecessary and undue burdens. They need to start knocking them down so everyone has access to their fundamental rights and to healthcare, no matter the size of their wallet or where they live.

There is a law called the Hyde Amendment, which is attached to the budget every single year and bans federal funds from being able to be applied to abortion. Anybody enrolled in Medicaid, federal employees, Indian Health Service, folks incarcerated or in the military, are unable to use their health insurance to pay for an abortion. They must come up with the money out of pocket, which disproportionately impacts women of color, especially those enrolled in Medicaid. Unfortunately, we’ve had pro-choice presidents forever.

The Hyde Amendment turns 40 years in September, which is 40 years too long. We’ve had pro-choice presidents who have been attaching this to their budgets every single year and codifying that only certain people do have access to this fundamental right. We’re hoping that will be the next big fight, but for now, laws like HB 2 and these other abortion restrictions are the fight we are taking on. We are excited, this is a huge victory for today, but we have a long way to go and we have a lot of work to do.

DB: I wrote a book called Henry Hyde’s Moral Universe, and he was a vicious anti-abortionist. He made courtroom stops at the various proceedings of anti-abortion terrorists. [...] How have you worked to get the woman’s story out, to break the shame ceiling and tell the truth about what’s going on?

RS: I had an abortion when I was 19. I grew up in a family that was fairly pro-choice. I remember seeing at uncles and aunts houses the Planned Parenthood envelope sitting around, so I vaguely knew we supported Planned Parenthood and choice. But I didn’t always know what that meant growing up. We talked about abortion, but nobody shared their own stories, so I didn’t necessarily know why the folks of my family and extended family supported it.

When I became 19 and needed an abortion, I knew it was the right decision and
have never regretted it, yet I still felt the stigma and was afraid to tell my family because I was afraid they would judge me and see that I made this mistake—how could you get pregnant, you know better. I sat with that a long time.

Coupled with that, when I turned on the news, we’ve got anti-choice politicians spewing disgusting hate freely on the airwaves. We have the murder of abortion providers like Dr. George Tiller. So, although I knew it was the best decision for me, it felt like people might harm me if I talked about it.

I finally met other people who had abortions and we were able to talk about it unapologetically. I felt like, “I’m done with people telling me how I should and shouldn’t feel about this decision I made.” I started sharing my story more and more and meeting other women who had abortions and wanted to share their stories. Something that was central to this case was the amount of amicus briefs where people shared their abortion stories with the court. It’s been happening for years, so now more and more people want to share their stories.

But when I wrote the Guide in 2014, I felt like there wasn’t a lot of support for people who did want to share their stories. I wanted to share the lessons I learned and what others who shared their stories had learned. I talked about how to talk to your family, how to deal with your own internalized stigma, how to deal with anti-choice calls. I received many death threats simply for saying I had an abortion.

DB: Death threats. What kind of death threats?

RS: Lots of death threats. On the Internet—emails, tweets, all kinds. I will never forget one where a man said he hoped I would get raped over and over and over again and sold into the sex trade and forced to give birth over and over and over again until I died, simply because he didn’t like that I said I had an abortion. It’s quite triggering to see that on your phone or in your email.

DB: Did you ever try to track any of these?

RS: Many of them use anonymous emails or tweet and delete. It’s scary that simply for saying what you believe in, or speaking your truth, people are willing to openly send you death threats. I want to be able to change that culture. Everyone loves someone who’s had an abortion. They probably just don’t realize it. One in three American women will have an abortion before the age of 45.

So what’s happening when so many are having abortions but many people believe they don’t know anybody who’s had one? That’s abortion stigma, keeping us in the closet and quiet. I want to fight back on that. I want to make sure we can talk about our experiences unapologetically.
DB: I’m glad there are people like you out there. Do you have get-togethers where people come and share their stories?

RS: There are a lot of events across the country. Last week I had a beautiful workshop where 30 people who had abortions held community together. It was a beautiful thing because it was like a shared secret. Although we don’t regret it, we’re often afraid to speak about it. Creating those spaces is so powerful. There are abortion speak-outs in communities, on college campuses, at conferences all the time. They have been happening since the Red Stockings, an organization before the Roe v Wade decision where women were sharing their abortion stories.

These speak-outs allow someone to come up, share their abortion story and receive unapologetic and unconditional love from the audience. It’s such a powerful moment. People are used to talking about abortion in political terms, democrat over republican, who is right and who is wrong, which is not our lived experiences. People want to talk about what they were dealing with at the time and why they needed to make the decision they did. That decision was to have an abortion.

DB: There is clearly a conservative streak in the Black community when it comes to abortion and sexuality. Have you dealt with this in the church community?

RS: I disagree a little bit. There is some polling that the majority of Black folks support access to abortion and contraception. We might not talk about it in the same way as white communities do, but we do support it. The polling says that over 80% of Black Americans, including those who identify as conservative and go to church weekly, believe that access to contraception and abortion should be available in our communities. We know that we need to be able to make decisions about our own bodies.

I get frustrated with media putting this on communities of color as if we are more anti-abortion, anti-LGBT and anti-sexuality than white communities. It happened quite a bit after the Prop 8 decision in California. It’s actually not true and is a bit of an operation of racism. We very much support access to abortion.

Visually, the people of color at the action at the Supreme Court today were overwhelmingly on the side of pro-choice folks. When I and another Black woman shared our abortion stories, then a Black woman for reproductive justice was speaking out for abortion, the anti-choice folks — who were mostly white — shouted us down but not the white speakers down. That shows the racism in the anti-choice movement that we need to talk about. The Black community and communities of color, including Latina, overwhelmingly do support it. It may
look different than what we are used to, we might not talk about it as openly, but overall we do support it.

DB: What comes next? What are the challenges? This battle is far from over.

RS: Absolutely. We have a lot of fights ahead of us. There are laws on the books across the country where young people are denied abortion access simply because of their age. We have waiting periods where people are forced to take more time to “think about their decision,” as if we didn’t think about our options when we chose an abortion.

We need to make sure clinics have buffer zones so people can enter and receive healthcare in peace without having slurs hurled at them. We need to repeal the Hyde Amendment. Justice Ginsburg said that a right is not a right without access to it. So we cannot have “pro-choice” politicians who allow this ban that denies people access to abortion based on their insurance and income.

Today is a huge victory, but we have a long way to go. I hope people learn more about the Hyde Amendment. Both democratic presidential candidates said they would work to repeal the Hyde Amendment and the Helms Amendment, which is the international version. We need to hold them to that if they become the administration. We need abortion access for all, no matter where you live or how much you earn.

DB: I remember reporting Henry Hyde’s visit to Joseph Scheidler, the abortion terrorist’s trial. Some of the most vile things.

RS: Some of the same anti-abortion terrorists are making a comeback. Troy Newman from Operation Rescue was on Ted Cruz’s campaign when he was running. I saw that Donald Trump shook Troy’s hand. These same anti-abortion terrorists supported people shooting up abortion clinics, killing abortion providers like doctor George Tiller and were OK with the Planned Parenthood in Colorado being shot up after last Thanksgiving. They are still very much a part of our political system.

I am proud to share my abortion story and speak out. But we also must recognize that there are terrorists who are trying to shoot down abortion providers and harm abortion clinics. We need to stay vigilant to make sure they are not part of our political process and are not allowed to wreck this violence on our healthcare system.