

CONTINUED RESISTANCE AND RESILIENCE AFTER *DOBBS*

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When we wrote *After Dobbs: How the Supreme Court Ended Roe but Not Abortion*¹ (“*After Dobbs*”), we knew we were providing a snapshot of the post-*Dobbs* landscape. Primarily, it was a snapshot in time. We interviewed the people in the book mostly in 2022, capturing their experiences planning for, reacting to, and reflecting on the U.S. Supreme Court’s decision in *Dobbs v. Jackson Women’s Health*.² The book includes studies and news developments from 2023 and 2024, but the research was limited to the immediate aftermath of the Court’s ruling.³

As much as *After Dobbs* is a snapshot in time, it is also a snapshot in substantive scope. We focused our investigation on the people who would be most impacted by an overruling of *Roe v. Wade*⁴: U.S. abortion providers, supporters, and advocates who would be responsible for maneuvering whatever new landscape an overruling of *Roe* would bring. With roughly a million abortions every year in this country, we could never capture the full breadth of abortion provision and support, but by carefully choosing who we interviewed, we believe we captured a good majority of experiences in the post-*Roe* landscape.

What we love about the collection of essays in this symposium about *After Dobbs* from some of the legal academy’s top reproductive rights and justice scholars is that they broaden the scope of what we did with the book in brilliant and generative ways. Professors Greer Donley and Rachel Rebouché’s essay⁵ focuses on recent developments in two key areas post-*Dobbs*: abortion care for those facing pregnancy emergencies and abortion training for new providers. Their essay builds on concerns we raised in *After Dobbs* and shows that there is good news about progress in these

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1. DAVID S. COHEN & CAROLE JOFFE, *AFTER DOBBS: HOW THE SUPREME COURT ENDED ROE BUT NOT ABORTION* (2025).

2. 142 S. Ct. 2228 (2022).

3. Linda Greenhouse, *Abortion’s Long History*, N.Y. REV. BOOKS, (Sep. 25, 2025), <https://www.nybooks.com/articles/2025/09/25/abortions-long-history-linda-greenhouse/> (on file with the *Fordham Law Review*) (saying about *After Dobbs*, “this is history as it unfolded”).

4. 410 U.S. 113 (1973).

5. Greer Donley & Rachel Rebouché, *Highlighting the Wins: How Movement Resilience is Making a Difference Post-Dobbs*, 94 FORDHAM L. REV. ONLINE 67 (2026).

areas as we approach the four-year anniversary of the decision.⁶ Relatedly, Professor Kimberly Mutcherson provides a deep dive into hospital abortion, something that we only briefly touched on in *After Dobbs*.⁷ Before *Dobbs*, hospitals provided a small percentage of abortions nationwide.⁸ Now, they have been called upon to do more, as clinics close in states that have banned nearly all abortions.⁹ Professor Mutcherson's research into hospital policy shows the barriers to expanding abortion care in hospitals, as well as avenues for reform to increase access in hospital settings.¹⁰

After Dobbs is focused on the United States, but Professor Cynthia Soohoo's essay¹¹ provides the necessary context to understand that what has happened here in the wake of *Roe* being overturned shares many similarities with what has happened around the world in the wake of other countries' draconian abortion policies.¹² Her essay shows that people in other countries have been innovating and resisting for decades, and the people who form the abortion resistance in *After Dobbs* have benefited from their work.¹³ Of course, given different legal, cultural, and political contexts, the specifics vary, but there is much we can learn about the future of abortion in this country by looking to experiences in other countries.

And finally, *After Dobbs* is about abortion, but broadening the scope beyond abortion into healthcare more generally is also instructive. Professor Maya Manian's essay¹⁴ recognizes the limits of law in defining abortion access (something reproductive justice scholars have been arguing for decades) and also celebrates the incredible work of abortion funds and supporters who have provided private responses to the injustices of abortion bans.¹⁵ But she also argues that private donations and activism are no long-term substitute for public funding and support, something that is as true for abortion as it is for every other aspect of the American healthcare system.¹⁶ And Professor Elizabeth Kukura makes this point even more broadly, looking at the various injustices of the American healthcare system and how abortion providers in the post-*Dobbs* environment have navigated challenges that people have long been attempting to address in the broader healthcare environment.¹⁷ In our wealthy, developed country, people who

6. *Id.* at 73, 76.

7. Kimberly Mutcherson, *Asking Hospitals to Do Their Share*, 94 FORDHAM L. REV ONLINE 98 (2026).

8. DAVID S. COHEN & CAROLE JOFFE, OBSTACLE COURSE: THE EVERYDAY STRUGGLE TO GET AN ABORTION IN AMERICA 58 (2020).

9. Mutcherson, *supra* note 7, at 102.

10. *Id.* at 102–05, 109–11.

11. Cynthia Soohoo, *Lessons Learned from Global Responses to Criminal Abortion Laws*, 94 FORDHAM L. REV ONLINE 115 (2026).

12. *Id.* at 133–36.

13. *See generally id.*

14. Maya Manian, *Law's Limits: Abortion and the Social Determinants of Health*, 94 FORDHAM L. REV ONLINE 87 (2026).

15. *Id.* at 89, 93–94.

16. *Id.* at 90, 94–97.

17. Elizabeth Kukura, *Abortion, Power, and the Future of Healthcare*, 94 FORDHAM L. REV ONLINE 79 (2026).

need healthcare (read: all of us) deserve a system that better distributes quality care more equitably, something that she argues the broader healthcare system might learn from the people featured in *After Dobbs*.¹⁸

As the two of us look beyond the scope of *After Dobbs*, we find it important to note what has changed and what has not since we finished the book. We wrote the book's epilogue the day after the 2024 presidential election, when we knew that Donald Trump had won but did not know what he would do with respect to abortion in his second go-around as president. Our biggest fears were that he would attempt to aggressively enforce the Comstock Act,¹⁹ the 1873 federal law that the antiabortion movement is now claiming bans mailing anything that can produce an abortion and roll back the Food and Drug Administration's (FDA) approval of mailed medication abortion—or even rescind the approval of medication abortion entirely.²⁰

We have been surprised that, so far, his administration has done neither of these things. And that is not because the antiabortion movement has not asked him to do so. They have written countless letters, held multiple congressional hearings, and publicly bemoaned his failure to act.²¹ Nonetheless, one year into this Trump administration, their pleas have been ignored. There are many theories as to why: his administration is too busy taking other extreme actions in other areas of the law, he fears the electoral consequences for his party of acting too harshly on abortion, he himself does not care about abortion and only used it as an issue to get elected. Whatever the reason, we know two things: one, he has the power to attempt these things yet has now failed to do so for over a year; and two, that could change at any moment.

There have been other important developments that we certainly hoped for when we finished *After Dobbs* but could not have predicted with certainty. Provision of abortion pills via the protection of shield laws has skyrocketed, and the antiabortion movement has not figured out how to stop it. *After Dobbs* profiles one of the early advocates for telehealth abortion across state lines, Dr. Linda Prine, but at the time, what she and others like her were doing was so new.²² Now we know that roughly fifteen thousand medication abortion packs are being sent by shield providers each month, the vast majority of which are going into states with abortion bans.²³ We also know that, despite a small number of civil suits in Texas and two criminal

18. *Id.* at 84–85.

19. An Act for the Suppression of Trade in, and Circulation of, Obscene Literature and Articles of Immoral Use (Comstock Act), ch. 258, 17 Stat. 598 (1873) (codified as amended in scattered sections of 18, 19, and 39 U.S.C.).

20. See generally David S. Cohen, Greer Donley & Rachel Rebouché, *Abortion Pills*, 76 STAN. L. REV. 317 (2024) (discussing both of these issues).

21. Elizabeth Dias, *Anti-Abortion March Brings Thousands to D.C., and a Sense of Frustration*, N.Y. TIMES, (Jan. 23, 2026), <https://www.nytimes.com/2026/01/23/us/march-for-life-trump-vance.html> (on file with the *Fordham Law Review*).

22. COHEN & JOFFE, *supra* note 1, at 156–57 (2025).

23. SOC'Y OF FAM. PLAN., #WECOUNT REPORT, APRIL 2022 TO JUNE 2025, at 12 (2025), <https://societyfp.org/wp-content/uploads/2025/12/WeCount-Report-10-June-2025-data.pdf> [<https://perma.cc/N6ZL-RDNC>].

indictments in Louisiana, shield providers have not backed down. In fact, shield laws have held up, with governors refusing to extradite and courts applying their provisions.²⁴ As with Comstock and the FDA, that could change in the future, but until it does (if it does), it is clear that, despite the antiabortion movement's efforts, shield provision is here to stay and is only going to grow.²⁵

State courts have also continued to play an instrumental role in keeping abortion accessible. The Utah and Wyoming Supreme Courts (the latter thanks to the case started by Julie Burkhart, profiled in *After Dobbs*²⁶) issued rulings that blocked implementation of abortion bans, meaning abortion remains legal in two of the most conservative states in the country.²⁷ State courts in Missouri and Ohio have been applying newly passed state constitutional amendments to protect and expand abortion access.²⁸ And courts in other states have issued rulings that more narrowly expand or protect access.²⁹ State courts are not universally fonts of abortion protection,³⁰ but they continue to be an important part of the post-*Dobbs* story.

These have been some of the highlights since we published *After Dobbs*, but the story is not all sunshine and puppy dogs. As much as abortion numbers continue to increase, some data show that the landscape is changing. #WeCount, the most comprehensive source of abortion numbers post-*Dobbs*, showed an almost 10 percent increase in both 2023 and 2024, but only a lower 4 percent increase in the first half of 2025.³¹ The Guttmacher Institute's newest data, which reflects monthly abortion numbers without

24. Pam Belluck, *Newsom Says California Will Not Extradite Abortion Provider to Louisiana*, N.Y. TIMES (Jan. 14, 2026), <https://www.nytimes.com/2026/01/14/us/california-louisiana-extradite-abortion-doctor.html> (on file with the *Fordham Law Review*). See generally *Texas v. Bruck*, No. EF2025-2536 (N.Y. Sup. Ct. Oct. 31, 2025).

25. Even if shield provision becomes less feasible in the future, there is a network of informal distribution groups supplying people with abortion pills throughout the country that is unlikely to be affected. See Carrie Baker, 'Mife No Matter What': Community Abortion Providers Pledge to Continue Sharing Free Abortion Pills, Even If FDA Imposes Restrictions, MS. (Nov. 4, 2025), <https://msmagazine.com/2025/11/04/free-abortion-pills-mifepristone-ban-states/> [<https://perma.cc/FC84-VHKS>].

26. COHEN & JOFFE, *supra* note 1, at 81–84.

27. See *State v. Johnson*, 582 P.3d 380, 405–06 (Wyo. 2026) (finding that state abortion law did not meet strict scrutiny standard); *Planned Parenthood Ass'n of Utah v. State*, 554 P.3d 998, 1046 (Utah 2024) (enjoining enforcement of a restrictive abortion statute while its constitutionality is challenged).

28. See *Comprehensive Health of Planned Parenthood Great Plains v. State*, 726 S.W.3d 716, 736 n.11 (Mo. Ct. App. 2025) (discussing “special deference” to constitutional amendment passed by Missouri voters regarding reproductive freedom); *Preterm-Cleveland v. Yost*, No. C-240668, 2026 WL 44987, at *3 (Ohio Ct. App. Jan. 7, 2026) (discussing Ohio voters' vote to amend state constitution to include “Right to Reproductive Freedom”).

29. See, e.g., *Okla. Call for Reprod. Just. v. Drummond*, 526 P.3d 1123, 1132 (Okla. 2023) (concluding that state constitution “protects the right of a woman to terminate her pregnancy in order to preserve her life”); *State v. Zurawski*, 690 S.W.3d 644, 671 (Tex. 2024) (“Texas law permits a life-saving abortion.”).

30. See, e.g., *Planned Parenthood of the Heartland v. State*, 975 N.W.2d 710, 744–46 (Iowa 2022); *Planned Parenthood S. Atl. v. State*, 892 S.E.2d 121, 132 (S.C. 2023).

31. SOC'Y OF FAM. PLAN., *supra* note 23, at 3.

shield provision, indicates that abortion travel, which had spiked immediately following *Dobbs*, has decreased recently.³² And data about births in states with abortion bans shows that between 3 and 11 percent of people have been unable to access abortion in states with abortion bans.³³ They are people who are the most isolated, far from abortion clinics, and unable to or unaware of the possibility of accessing abortion through telemedicine. As a result, other studies have shown that maternal and infant mortality rates have increased in states with abortion bans.³⁴

All of this leads us to ask whether we are, as we approach the four-year anniversary of *Dobbs*, reaching a point that Professor Manian's essay calls to our attention: the limit of private resilience and resources in response to legal retrenchment.³⁵ On the one hand, as the sustained generosity of time and money that flowed to and from abortion providers, supporters, and patients lessens, abortion access may become more difficult.³⁶ We know that people's attention is elsewhere now that the Trump administration is invading American cities, trying to erase trans people from legal existence, bombing civilians in international water, and threatening a complete reordering of international relations.³⁷ It is no surprise that private donations to abortion funds are decreasing, and providers and patients are feeling the effects of that.³⁸

But on the other hand, if there is anything that writing *After Dobbs* has taught us, it is that the community of people who provide, support, and obtain abortions will, if at all possible, find a way. Stated differently, if asked to place our bet on the never-ending attempts by the antiabortion movement and its state apparatus to end abortion everywhere or on the innovative responses of the abortion providers, supporters, and patients who responded to *Dobbs* by providing and obtaining more care than before *Dobbs*, we know where we will place our money: on the people in *After Dobbs* and those like them.

32. *Preliminary Guttmacher Data Show a Decline in Abortions and Cross-Border Care in States Without Total Abortion Bans*, GUTTMACHER INST. (Sep. 30, 2025), <https://www.guttmacher.org/news-release/2025/preliminary-guttmacher-data-show-decline-abortions-and-cross-border-care-states> [https://perma.cc/6LSE-84VX].

33. Nancy F. Berglas, Jessica T. Barnes, Elizabeth Gonzalez, Lisa Peters & Diana Greene Foster, *Changes in Abortion Access, Travel, and Costs Since the Implementation of State Abortion Bans, 2022-2024*, 115 AM. J. PUB. HEALTH 1713, 1715 (2025).

34. Alison Gemmill, Alexander M. Franks, Selena Anjur-Dietrich, Amy Oinsky, David Arbour, Elizabeth A. Stuart, Eli Ben-Michael, Avi Feller & Suzanne O. Bell, *US Abortion Bans and Infant Mortality*, 333 [J]AMA 1315 (2025); GENDER EQUITY POL'Y INST., MATERNAL MORTALITY IN THE UNITED STATES AFTER ABORTION BANS: MOTHERS LIVING IN ABORTION BAN STATES AT SIGNIFICANTLY HIGHER RISK OF DEATH DURING PREGNANCY AND CHILDBIRTH I (2025), <https://thegepi.org/GEPI-maternal-mortality-abortion-bans.pdf> [https://perma.cc/787R-3KQE].

35. Manian, *supra* note 14, at 96–97.

36. *Id.* at 96.

37. *See, e.g., Litigation Tracker: Legal Challenges to Trump Administration Actions*, JUST SEC., <https://www.justsecurity.org/107087/tracker-litigation-legal-challenges-trump-administration/> [https://perma.cc/E26U-B6X7] (last visited Feb. 17, 2026) (providing a live, searchable tracker summarizing legal challenges to Trump administration's actions).

38. Manian, *supra* note 14, at 93.