

Democracy in Danger S4 E7 Body Politics

Unknown [00:00:00] We will hear argument this morning in Case 19...

Will Hitchcock [00:00:03] On December 1st of 2021, the U.S. Supreme Court heard oral arguments in a blockbuster case out of Mississippi.

Unknown [00:00:10] And may it please the court. Roe versus Wade and Planned Parenthood vs. Casey...

Will Hitchcock [00:00:14] It will affect the fate of women across the country.

Unknown [00:00:17] The Mississippi law here prohibits abortions after 15 weeks. The law includes robust exceptions for a woman's life and health.

Will Hitchcock [00:00:24] In practice, this law, although bans the procedure protected under the landmark Roe v. Wade decision since 1973.

Unknown [00:00:31] Child is undeniably human.

Allison Wright [00:00:33] When the court's conservative majority appears ready to uphold that state law and possibly gut roe entirely among them Justice Clarence Thomas questioned whether a right to abortion can be derived from the Constitution. And he wondered about the rights of fetuses

Unknown [00:00:50] in the case of ingesting an illegal substance and causing harm to a pre viability fetus.

Allison Wright [00:00:59] Of course, those issues aren't posed in this case. Judge Amy Coney Barrett, appointed to the court by President Trump, signaled that protecting abortion may not be necessary given other options available to pregnant people.

Unknown [00:01:12] Are you saying I mean, actually, as I read Roe and Casey, they don't talk very much about adoption. It's a passing reference that that.

Allison Wright [00:01:18] The High Court's three liberals, meanwhile, are facing an uphill battle. In their questions, they defended a person's right to terminate her pregnancy. And they signaled that overturning a long-established precedent would devastate the court's legitimacy. Here's Justice Sonia Sotomayor, an Obama appointee.

Sonia Sotomayor [00:01:37] If people actually believe that it's all political, how will we survive? How will the court survive?

Will Hitchcock [00:01:46] From the University of Virginia's Deliberative Media Lab, this is democracy in danger. I'm Will Hitchcock

Allison Wright [00:01:52] and I'm Allison Wright sitting in for Siva Vaidhyanathan. A ruling in that case, Dobbs v. Women's Health Organization is expected in June, near the end of the court's current term. And today we're taking up the issue of abortion access with a guest who has argued that this right is not only important for women's equality, but fundamental to real democracy. Journalist and essayist Rebecca Traister joins us from

Portland, Maine. She is a writer at large for New York magazine and the author of three books on women and politics. Two of them bestsellers. Her most recent book *Is Good and Mad*. Rebecca, welcome to *Democracy in Danger*.

Rebecca Traister [00:02:34] Thank you so much for having me.

Allison Wright [00:02:36] So, Rebecca, you wrote a piece in New York magazine saying that we have arrived at a critical moment after decades of systemic failures. You wrote, The biggest and most damning of these is the failure to counter a regressive movement's project to ensure minority rule and thus dismantle the rights and protections won by activists who labored over generations to gain them. Abortion rights very much included. And you go on to say that this failure turns on not recognizing quote the full humanity of women, of poor people, of black and brown people. This is an argument about race, about equality, about democracy, and about how abortion figures into that. Can you flesh that out for us?

Rebecca Traister [00:03:23] I can. So I should say that I wrote that piece and was making that argument. I believe the day after the oral arguments in *Dobbs*, when I was seeing so much coverage of what everybody felt was quite likely to happen, which is that overturning *Roe v. Wade* and people sort of focusing on this is the moment where we got here right? And everybody had it sort of different villain, right? A different person who made an error. Right R.B.G. Should have retired. Yeah. Yes, very. Hillary Clinton. Bernie Sanders stayed in too long and poison the well, OK. Hillary Clinton should have been a different person or not existed. OK. Like, there are all these moments, right? And people in their anger and fear very naturally were turning to the moments on which they saw this hinging. And and by the way, there's validity there. Right. If Hillary Clinton had won the 2016 election, we wouldn't be in this position right now. If Ruth Bader Ginsburg had retired, we wouldn't, right? It's not that those arguments aren't true insofar as they go. But the thing I was frustrated by was the way that they distract from a far bigger truth, which is that we got here, not just in one moment. We got to those places where that one moment could be so determinative after decades of inattention to all kinds of it. And then I say it in that piece, far more than abortion. This also applies to labor protections, to voting rights, to gay marriage, to all kinds of other things that are at stake here. Given what has happened to our courts and our democratic systems and to our party's strategies over recent years. And that's the argument that I was making by singling out individual villains or individual moments, we lose the bigger and I think crucial picture, which is that a party, the Democratic Party, in fact, that was supposed to be entrusted and that in fact often sold itself to voters and donors as being the party that was going to protect all these rights that were won in a series of a victory is often in the mid 20th century, right? Permitted us to get here by not fighting vociferously with heart, with forethought. Strategically so that we would not be in this vulnerable position where one, you know, octogenarian justice was the single tipping point. It should never have come down to that had we had a true robust defense of abortion rights and access as health care. And the fact that we didn't is because no one was willing, including people in the Democratic Party, to treat this fundamental piece of health care as something worth fighting for, which means they weren't willing to fight for women and pregnant people. They were not willing to fight for poor, black, brown, immigrant, rural communities for vulnerable young people, all the people for whom abortion has, by the way, been all but inaccessible over decades.

Will Hitchcock [00:06:34] I want to pick up Rebecca just a little bit on that linkage that you're making there between access to abortion as a right and our long, awful history of racism in the United States. We spent a lot of time on this show, a lot of time trying to

unpack the way our particular history of racism has shaped our politics and the way that racism is embedded in our governing structures. But I'm hearing you link racism with the failure to defend abortion rights. Help us understand those linkages.

Rebecca Traister [00:07:04] Well, it comes from the connections are multifaceted right there. There are all kinds of places where these things are linked. So throughout history, part of the impulse to control the reproductive life of women, that impulse is about controlling populations. In many cases, it's been about trying to control or prevent miscegenation. Right. And it's been about trying to control access to birth control to abortion in various instances, marriage itself right in earlier eras. It's not an accident that enslaved people were in many cases, not legally allowed to wed and in other cases, forced to wed. Right. The control of sexual romantic marital familial life has been key to maintaining all kinds of hierarchies, especially race and class hierarchies. Because in controlling that reproduction, first of all, you imagine that you might patrol racial borders, but also that you are determining people's familial and economic lives. You know, the economic well-being of their family units or themselves. So there's that right that is the absolute key to controlling reproduction in many cases, is about asserting racial hierarchies.

Allison Wright [00:08:22] So, Rebecca, you've put the blame pretty squarely on Democrats for allowing a Republican sort of framework to normalize around the abortion debate. And Democrats have largely accepted a compromise discourse that abortion should be rare even if it is legal. One piece of evidence of democratic inaction on abortion rights is the Hyde amendment. So can you remind our listeners what the Hyde amendment is and why Democrats have done so little to counter it?

Rebecca Traister [00:08:50] So Roe is decided in 1973, and just a few years later, Henry Hyde proposes the Hyde Amendment, which is a legislative rider that says state money cannot be used to pay for abortions. What that means is that anybody who relies on federal or state insurance programs cannot use those insurance programs to pay if they need abortion care. Now that, of course, is directed at populations who rely on state insurance, those are poor populations disproportionately likely to be black and brown. And meanwhile, people who have private insurance companies can use their private insurance to pay for abortion. Of course, those people are also more likely to be able to pay for abortion separately if necessary anyway, right? So what that does, what the Hyde amendment does effectively is cut off millions of people from being able to access what has been what is legal. There were Democrats who voted for Hyde, right, who saw this as some kind of OK, moral compromise, like, OK, sure, abortion can be legal, but we wouldn't want the government to pay for it. You know, rooted in some sort of like abortion is a particular icky thing that we wouldn't want state money to touch again, taking the focus entirely off the human beings who cannot get this piece of health care. The Democratic Party for a long time has been full of anti-abortion Democrats. Among those who supported Hyde was Joe Biden. Now, Joe Biden has since changed his position on abortion, right? But it was very common. There were a lot of anti-abortion Democrats in the party, many of whom voted for Hyde, but it wasn't just them. You know, Jimmy Carter said about Hyde that lots of things in life aren't fair. There are lots of things that rich people can get that poor people can't. Jimmy Carter said that in the late 70s, you know,

Will Hitchcock [00:10:46] But he's the conscience of our nation!

Rebecca Traister [00:10:48] Conscience of our nation, right? But but wait it. But wait, there's more. I mean, the attitude toward there's nothing we can do about Hyde extends so

far that Barack Obama winds up referring to it as a tradition. The tradition, you know, the tradition of keeping poor people from getting health care in this country. And most of the Democratic Party wouldn't touch it with a ten-foot pole. The idea of actually morally objecting to Hyde. And this is what I mean when I talk about decades of failure to tell the human moral story of why this is important, because over decades, you have millions of people in this country who cannot get this health care whose bodies, health, families, economic stability are harmed.

Will Hitchcock [00:11:37] Yeah, I mean, it's been pretty slow in coming. Let me ask you about a different kind of legal chicanery that surrounds abortion rights. So the Texas case, the Mississippi case, these are being pushed through the state legislatures so that they can get on to the Supreme Court docket. Basically, the states are trying to circumvent the national political will. But I want to ask you, I mean, what one here sometimes is, hey, the states passing their own rules about access to abortion is democratic. What's wrong with that? Now, I wonder what you think about that line of reasoning, but also, maybe you could put it into historical context. How has this notion that states can do whatever they want resonated in our political history.

Rebecca Traister [00:12:24] It's very interesting the question of states' rights because of course, you know, the states rights are what permitted Jim Crow states rights were, you know, an underpinning of systemic racist lawmaking and restriction. States rights also became in various periods. There was there was a moment in the early Trump administration when you saw the states when Democrats didn't have any federal leverage where you actually saw a left investment in states rights. Both sides have various moments, which states rights look pretty good to them when they're shut out of power federally. After having a lot of very disruptive eruptive victories around civil rights, women's rights, gay rights, the sort of massive economic changes of the Roosevelt administration, the New Deal. You know, all this stuff that changed and the left experienced what they understood as big forward motion in the middle of the 20th century and then somehow stopped strategizing about how to protect those victories, right? Understood them as an end point, rather than a starting point and the right that experience those losses immediately started strategizing. And one of the keys to their successful strategy was local and state politics was taking control of state legislatures, school boards, city councils. Right. While the left was treating and people say this, but it's really true treating something like Roe as the ceiling, not the floor. And I would say that was true about voting rights as well. Certainly, labor protections. Meanwhile, you know, social safety nets, welfare policies are being eaten away by the right on both state and federal levels. So the control of states has been a project of America's right wing over decades at this point. So states rights means right wing control of vast portions of this country. And by the way, make no mistake, it is in states given these state restrictions that again, it is extremely difficult to get an abortion in which being an abortion provider is so untenable that you know there's only one clinic or there's one doctor who flies in, which of course, then puts this tremendous burden on anyone who requires abortion care.

Allison Wright [00:14:51] And yet abortion is remains popular, right? For instance, something like six out of ten Americans support the right to abortion. In the latest polling.

Rebecca Traister [00:15:02] So when I think about the ways in which we failed to robustly protect this right, I think about polling because for my lifetime, I was always told this country is starkly divided 50-50. Some people want abortion, some people don't want abortion. And again, it put abortion into this different category from the rest of health care. And it's really only again within the sort of past six years or so that pollsters began to ask

the questions differently. And by the way, some of that is about having pollsters who were not Beltway government, largely white men, right? Some of it is having pollsters who are more interested and versed in issues of systemic inequality and bias, right? And so a new group of pollsters came in and they began to ask these questions differently. And it used to be that they would go to people and say, Are you, you know, anti-abortion or pro-abortion? I mean, that's like the worst. But they began to ask it in two stages and say, Do you personally believe in abortion? And then the person would answer. And then the second one is, do you believe it should be legal in most circumstances? And then they'd often give a separate answer. And what they learned is that for years when we were told, Oh, it's 50 50 divided, you know, you can't get the people who personally would not get an abortion for themselves or personally had a moral or religious objection to abortion care would answer "No, I don't believe in abortion", but that that didn't necessarily mean they thought it should be illegal. Sure, some people did. Some people that matched right, but that when you asked it that way, it gave people the room to give their personal view and then to say what they thought the public legal situation should be. And when they did it that way, they got a majority of people and more than a majority and close to 70 percent in states, including red states, purple states, Kansas. Seventy percent of people who. Want abortion to remain legal in some form, right? And that's a very different story.

Will Hitchcock [00:17:03] How is it possible that why is there no political price? Why has that the popularity of access to abortion not translated into an effective, you know, tactical political strategy?

Rebecca Traister [00:17:17] Well, I think because up until now, the populations who have suffered most for lack of access have the least pull with a democratic consultant class with the politicians themselves, with the media, right? There is no I work in political media and the kind of lack of understanding from my peers about even what the Hyde amendment is, what state restrictions mean because so many of our political storylines are produced by a class of people who have not had any interference with their access to reproductive care. And because Roe officially still stands, there is no reason for them to sit like they don't. It is absolutely about this kind of the inattention to vulnerable populations. Again, I think one of the rhetorical, argumentative and moral failures of those who were supposed to be defending abortion rights was to permit it to be put in a separate category, right, that it's special in some way that it's especially tender. And I understand all the reasons why, but it's a real failure to not point out that it is a fundamental part of reproductive care. We would find it very weird and I want to stress not impossible in future if we were told, well, some states are going to allow you to get prenatal testing. And some states aren't OK. And I just want to say that's not an impossible future, but it would sound weird to us. It would sound weird to us if we said, Well, some states you can't get a cesarean in the state, you can't get IVF in this state. Right. We would rear back from that right. This is health care. This is this is reproductive health care and about medical procedure, other medical procedures, too. There's certain kinds of surgeries you can't get. It's also very, very true about birth control, right? People forget that birth control is actually only legalized by the Supreme Court first for married people. And then several years later, in the early 70s for single people. There is, I think, especially among young people. There is this idea that birth control is like, you know, sure, you can always you can get condoms, you can get the pill, you can get your IUDs. That is a very recent legal phenomenon.

Allison Wright [00:19:32] Well, it's true, and not everyone can still had not every person with a uterus, person with a cervix person with fallopian tubes, right, can still have every procedure that they want without permission from a partner or a spouse, right? For instance, when I was single in my 30s, I wanted to have the procedure that's commonly

known as having your tubes tied. And I had been divorced in my 20s. I knew I never wanted to have children, and I had a doctor who told me, Well, you might one day. And what if you get married again and then your partner wants to have children? I was denied that procedure, you know, and this was maybe five years ago, four years ago here in Charlottesville, at a university hospital, a teaching hospital

Rebecca Traister [00:20:18] that is that is horrifying. And I'm and I am sorry. And I also believe that that is key to what we are looking at in the not so distant future, even, you know, more broadly.

Allison Wright [00:20:32] So, so, Rebecca, let's assume that Roe is going to be overturned this June. What should the strategy be for reasserting this right for women if there is one? And I and I think you're pessimistic about this, but where might the struggle go?

Rebecca Traister [00:20:47] So I'm not pessimistic about the very long-term fight. I am more than pessimistic about the short-term success strategy ideas. I cannot emphasize enough that when I describe my short-term vision, I am not advocating despair. I am advocating the opposite. But what I have found in discussing this issue is that there is a tremendous hunger for those who find themselves surprised that this is happening for like, OK, how do we fix it? And the answer to my mind is, OK, A) it's the work of our lives and not just on abortion, on a lot of these things, right? The work of trying to win these rights and protections that have been squandered and permitted to be taken away. The work of trying to win them again is the work of the rest of our lives, but also know that it will be the rest of our lives and we probably won't live to see them restored. And that I say not to be like overdramatic and not definitely not to instill a sense of futility. But part of the tragedy here is that so many of these rights and protections, whether we're talking about abortion, whether we're talking about labor protections, whether we're talking about voting rights, they were won after literal centuries, generations of people working, working in many cases giving their entire lives to fighting battles where they never saw victory and in fact lived through probably further regression, right? But the victories that did eventually come would never have been made possible if it weren't for those generations of people who had been willing to give their lives and their energy to fighting for a more equitable world and better protections and more stability for more people. So among the many tragedies that I'm very angry about was that there was not respect paid to the fact that they were centuries in the making and that we permitted them to be taken away in a matter of decades. And getting them back could well take centuries again. I hope that's not the case.

Allison Wright [00:23:05] Well these laws will be very different, right? I mean, people, women who may end their own pregnancies, women who may miscarry not of their own accord could be prosecuted. I mean, it will be a very different world. We are not actually just talking about the access to safe and legal abortions. We are talking about an even more draconian world, potentially in the future.

Rebecca Traister [00:23:27] Right. In the past, there was not the sense. There was a sense of the women as some kind of victim. I think that has been dispensed with. I think you are looking at a sort of carceral reality and there were always just to be clear, just to be clear. And I think I think people know this, but maybe not. There have always been abortions and there will always be abortions. Human beings require abortion care, and making abortion illegal does not make it rarer. There is no correlation, so people are going to continue to have abortions. The question is how, how safely and what will happen to

them and to their health care providers and to their families when they do. And the answers are going to look different than they did before 1973, but they're going to be very, very horrible.

Will Hitchcock [00:24:22] Well, Rebecca Traister, thank you so much for joining us on Democracy in Danger.

Rebecca Traister [00:24:27] Thank you so much for having me. I wish it were on a more cheerful topic.

Will Hitchcock [00:24:42] Rebecca Traister is a writer at large for New York magazine and the author of Good and Mad The Revolutionary Power of Women's Anger.

Allison Wright [00:24:51] Democracy in Danger is part of the Democracy Group Podcast Network. Visit Democracy Group dot org to find all our sister shows. We'll be right back after this message from our friends.

Ad: [00:25:05] We've been interviewing guests on let's find common ground for about two years now. Richard, what have you learned from them? Ashley, I've been surprised that despite all of the polarization around us, that there are so many remarkable people working to find common ground every two weeks, we release new episodes of our podcast. There are more than 50 of them. Find them all on the Democracy Group website, or let's find common ground dot org. I'm Ashley Milne-Tyte. I'm Richard Davies. We find common ground. One episode at a time.

Will Hitchcock [00:25:53] Allison, that was a remarkably powerful story that you began to tell in our interview. Tell us a little bit more about that moment and how it has framed your perception of this erosion of women's rights to health care.

Allison Wright [00:26:08] Thank you. So, you know, I think a lot about my own access to health care and other things, and I am a relatively privileged person. I am multiracial, but I largely identify as white and I am middle to upper middle class and I have a Ph.D. and I have access to health care through my employer. But I asked for a tubal ligation at 37 years old and I was unmarried, and the doctor questioned why I would need that procedure, why I would want that procedure. And I simply said, I don't want to have an IUD anymore. And I said, I know that I don't want children. I've never wanted children. And it was a really dehumanizing experience to be told that I was not allowed to make that decision for myself and that I might at some point in the future be with someone who wanted something different and that that person's potential wants and desires and needs would be more important than mine. And so I think a lot about that when I read about access to women's health care at large and I know that we are headed toward a much more draconian future and that the end of Roe means more than just the inability for women to have access to safe and legal abortions. It means that women will be prosecuted for miscarrying through no fault of their own. It means that providers, physicians, physicians, assistants, all types of health care providers will be prosecuted simply for sharing information about access to abortion. Teachers, for instance, who share information about access to abortion, can be sued in certain cases. Right. This was part of the case in Texas. And so I just think that, you know, someone like myself who sought out health care and was denied and ostensibly has all the resources available that is, you know, the best case scenario. And so I think for so many millions of people, it's going to be much, much more difficult.

Will Hitchcock [00:28:35] You know, there's a feeling that comes from hearing you talk and hearing Rebecca talk that we are in some respects going backward in time, that we are going to have to kind of relive and return to an America from the immediate post-Civil War era up through the 1960s. Essentially, the long century of Jim Crow is returning, but of course, we don't ever go back in time. We go forward and what we're going to end up doing is pulling with us into that future. Some of these historic denials of rights to certain communities. And yes, it's possible that you might find that there's a patchwork in which little groups of people in certain places in the country might still have access to women's health care or to voting rights, for that matter. But there will be a vast swath where many of these rights begin to be eroded and are finally extinguished. And that sense of interacting with our past of both reliving our past but also living a future that echoes but is different from what we've already experienced is something that is very hard for me as a teacher to communicate to my largely teenage college students. They look at the past as basically benighted and lost in time, and they look at their present as somehow, naturally a little bit more thoughtful and progressive. And they imagine a future that probably will be better because they're young and they're optimistic. And one of the most heart-wrenching things about being a teacher in the 21st century is that you cannot be optimistic about the future, and this runs counter to the very fiber of the being of young people who basically believe that they can control their destiny, and that if they're just good enough and smart enough and nice enough and kind enough that they can make a difference in their world and I'll be the last person to deny them or to pop the bubble of that illusion. But increasingly, I do feel, especially after talking to guests like Rebecca, that if we don't mobilize much more quickly with much greater urgency, that notion of being able to shape our future in happy ways that we imagine sort of almost as our birthright is going to come to an end and that is a very anxious place to be. But one of the challenges of being a person with some experience is that you have to introduced the idea that progress is fragile and rights that people take for granted are fragile and they were hard won, and there are a lot of forces that would like to see them disappear.

Allison Wright [00:31:03] You know, will I find the optimism and enthusiasm of youth encouraging? And I want to find some hope in what Rebecca said about the more recent polling. Almost 70 percent of people believe in access to abortion, even if not all of them would choose to have abortions. Those people need to incorporate this into an effective get out the vote campaign if the right to abortion is to survive.

Will Hitchcock [00:31:34] That's all we have this week on democracy in danger. Next time, political scientist Kevin Casas Zamora compares the health of self-government in America with other countries, and his diagnosis is not good. What we saw in our measurements was a decline in the ability of Congress to investigate the executive branch and then the widespread incidents of police brutality in many cities across the US.

Allison Wright [00:32:00] Please stay in touch. You can tag us on Twitter at DinD podcast. That's D-I-N-D podcast. Subscribe to the show and leave us a review on Apple Podcasts. That's the best way to help us reach new listeners.

Will Hitchcock [00:32:15] There's lots more to read and see on our web page. DinDanger.org. Check it out!

Allison Wright [00:32:20] Democracy in Danger is produced by Robert Armengol, Jennifer Ludovici is our associate producer, Sydney Halleman edits the show. Our interns are Denzel Mitchell, Jane Frankel, and Elie Bashkow.

Will Hitchcock [00:32:33] Support comes from the University of Virginia's Democracy Initiative and from the College of Arts and Sciences. The show is a project of UVA is Deliberative Media Lab, we're Distributed by the Virginia Audio Collective of WTJU Radio in Charlottesville. I'm Will Hitchcock

Allison Wright [00:32:48] and I'm Allison Wright. Siva will be back next week.