

Justice in Action: Social Justice Strategies: Reproductive Justice

[00:00:00] Introduction to Sustained: Justice in Action

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[00:00:04] **Milik Robinson:** You are listening to Sustained: Inside the conversations, classrooms, and collective efforts happening at CUNY Law. Join our public interest lawyers, advocates, and communities as we carry social justice forward.

[00:00:20] **Elise Hanks Billing:** This episode is part of CUNY Law's Social Justice Lawyering Strategies to Confront the New Administration series, recorded in February of 2025, it brings together CUNY law faculty and alumni experts to discuss the future of reproductive justice in a post-Roe era. Panelists examined the legal landscape, anticipated challenges, and strategic responses, emphasizing how lawyering advocacy and organizing can help build a new vision for reproductive justice.

[00:00:50] Meet the Panelists

[00:00:50] **Cindy Soohoo:** Hi, everyone. I'm Cindy Soohoo, a professor at CUNY and the co-director of the Human Rights and Gender Justice Clinic. Today, I'm really excited to be in conversation with three [00:01:00] CUNY alums, Amanda Allen, Farah Diaz-Tello and Katie Corwin. I'm going to do brief introductions and then we'll start our conversation.

[00:01:07] **Cindy Soohoo:** Amanda Allen is CUNY class of 08, and she is the co-director, co-founder, and Deputy Executive Director for Legal Programs at The Lawyering Project. The Lawyering Project uses the law to improve abortion access and uphold the rights and dignity of people seeking and providing abortion care. Farah Diaz-Tello is class of 09 and is senior counsel and legal director at If/When/How.

[00:01:31] **Cindy Soohoo:** If/When/How works to transform the legal and policy landscape so that everyone has the power to decide if, when, and how to define, create, and sustain families.

[00:01:41] **Cindy Soohoo:** Finally, Katie Corwin is the class of 2024 she's a legal fellow at the Reproductive Rights Law Initiative at Case Western Reserve University.

[00:01:49] **Cindy Soohoo:** The Initiative works to Preserve, protect, and expand access to abortion and reproductive healthcare in Ohio and throughout the Midwest, which really is so needed today.

[00:01:59] Historical Context of Reproductive Rights

[00:01:59] **Cindy Soohoo:** I also [00:02:00] want to note that our guests are not only CUNY alums, but also alums of the Human Rights and Gender Justice Clinic. Both Farah and Amanda were in the clinic under its former name, the International Women's Human Rights Clinic when it was run by Professor, the late Professor Rhonda Copeland, who was really a trailblazer in the fight for reproductive rights.

[00:02:17] **Cindy Soohoo:** And I just want to note that in 1980, actually Rhonda argued Harris vs. McRae, which was the Supreme Court case which challenged the Hyde Amendment, which unfortunately to this day still prohibits federal Medicaid funding for abortion. Rhonda was really making amazing arguments that the Supreme Court I think should have accepted back then.

[00:02:37] **Cindy Soohoo:** But we're still fighting that fight. And I think it's important for us to recognize that it's been a long fight to work for real access to abortion, maternity, and sexual and reproductive healthcare that predates this current Trump administration and the overturning of Roe versus Wade in 2022, . And that this fight continues to this day.

[00:02:57] **Cindy Soohoo:** And what I'm hoping is that, we're going to be talking [00:03:00] about where we are but that even as we, we talk about this crisis, when every, when everything seems like it's getting broken, that we also think about how do we move beyond defending what we had and envision something better.

[00:03:14] **Cindy Soohoo:** And so with that, I'm going to just open up our conversation.

[00:03:17] The Post-Roe Landscape

[00:03:18] **Cindy Soohoo:** And so we're going to talk about the post-Roe landscape and the new threats the real threats created by the Trump administration. But before we do reproductive justice activists often say that Roe was never enough.

[00:03:32] **Cindy Soohoo:** So I just want to open up this conversation asking you guys to explain why Roe was so important, but why it wasn't enough.

[00:03:41] **Cindy Soohoo:** You want me to pick someone? It's like I'm in class. Okay, Amanda, I'm gonna pick you.

[00:03:46] Why Roe Was Never Enough

[00:03:46] **Amanda Allen:** So, it's hard to answer this question after we've lost Roe, right? Because we don't want to suggest that having lost the federal constitutional protections to abortion [00:04:00] is somehow no big deal. Obviously losing Roe a couple of years ago has completely decimated abortion access across the country.

[00:04:08] **Amanda Allen:** But what reproductive justice advocates have been getting at all along is this idea that the legal framework that Roe set forth was one that never actually provided full access to everyone. So a couple of examples—one is that what flowed from Roe was a later case that the Supreme Court decided in 1992 called *Planned Parenthood v. Casey*.

[00:04:33] **Amanda Allen:** And in that case, it really watered down the constitutional standards that Roe had provided in saying, actually, states can enact whatever restrictions they want early in pregnancy as long as they don't amount to an undue burden. And so we saw for decades leading up to the *Dobbs* decision, fighting in courts about what is an undue burden, right?

[00:04:54] **Amanda Allen:** And so the court said forcing patients to wait 24, 48, even [00:05:00] 72 hours was not an undue burden. The court found a way time and time again to find that these barriers that states were putting between patients and the abortion care that they needed weren't undue burdens. Another really good example is that Roe never provided access for young people.

[00:05:19] **Amanda Allen:** And so states were free to really severely restrict access to abortion care for young people for whom it might put their lives at risk to involve their parents. And so there are all of these ways that Roe provided a

good constitutional floor, but was never enough to actually make sure that people could access the care.

[00:05:43] **Amanda Allen:** And then of course, Professor Soohoo you mentioned Medicaid, that was another really good example of but if you can't afford it, and if

[00:05:50] **Amanda Allen:** you're on Medicaid and your insurance doesn't cover it, it doesn't mean very much.

[00:05:55] **Farah Diaz-Tello:** It's Farah I would jump in to add some of the insights that I gained [00:06:00] from being a CUNY student. I think one of the things that I really learned in Professor Copeland's clinic was that the reason that Roe wasn't enough is that our constitution, on some level, has never really been enough.

[00:06:11] **Farah Diaz-Tello:** And so really getting to see what we are guaranteed by our constitution or what rights we have under that constitution juxtaposed with the rights and entitlements that we have as our human rights—to which we're entitled, regardless of whether or not the United States believes that we are.

[00:06:26] **Farah Diaz-Tello:** And that distinction that between rights and especially rights that are in a privacy framework or a negative framework that the state can't transgress versus the things that we are entitled to claim from the state is a big one. And it's exactly the reason why so many people across vast swaths of our country always lacked access to abortion care, always lacked access to adequate healthcare period, or even beyond their reproductive lives.

[00:06:50] **Farah Diaz-Tello:** And then coming from the perspective of the work that I do, which is primarily concerned with the criminalization of people's reproductive lives and state interference and state violence, Roe didn't really address [00:07:00] that.

[00:07:01] **Farah Diaz-Tello:** Roe was about a person's ability to seek abortion care in the formal medical system and Roe itself—although the juris really moved away from this—but Roe was really about physicians ability to provide that care. And, that was a way of thinking that was abandoned, but in some ways really, the focus of the constitutional interpretation on abortion was about abortion in the formal healthcare system.

[00:07:27] **Farah Diaz-Tello:** And we know that as long as people have been getting pregnant, people have been finding ways to end unwanted pregnancies, regardless of what the law says inside and outside of formal medical systems.

[00:07:38] **Farah Diaz-Tello:** And Roe didn't really give us an answer as to how those people should be treated neither criminalized nor decriminalized people self-managing abortions are performing abortions for themselves in their own communities.

[00:07:50] **Farah Diaz-Tello:** And so that's why the name of one of our early reports that we worked very closely with the clinic on was called "Roe's Unfinished Promise" because it's really fundamentally Roe was about [00:08:00] decriminalization, but it was not really about decriminalizing human beings. It was about decriminalizing provision of healthcare which doesn't quite get us all the way to liberation.

[00:08:10] **Farah Diaz-Tello:** And I do want to echo though, what Amanda said about not wanting to throw the baby out with the bathwater. Roe was never enough, but it was something.

[00:08:16] **Farah Diaz-Tello:** And on our Repro Legal Helpline, we hear from people every single day who are in fear, who are in terror. Who are being told by their healthcare providers that they have to wait until they're in a more extreme situation—they have to go back home, go wait in the parking lot until their condition is extreme enough that they can be provided lawful emergency abortion care.

[00:08:36] **Farah Diaz-Tello:** So certainly, the removal of that right has been extremely consequential and in ways that I'm sure we'll discuss more as we go on.

[00:08:45] **Cindy Soohoo:** Thanks guys. That was great. It's really helpful to put in context in terms of what are the shortfalls of our constitutional system that don't, doesn't afford affirmative rights to people to actually access their rights and also in, in terms of the government not having [00:09:00] obligations to make sure people have access to their rights. But as you said Roe really provided important minimum standards, right? That really prevented states from making abortion illegal, right?

[00:09:12] Current Legal Landscape Post-Dobbs

[00:09:12] **Cindy Soohoo:** And Katie, can you talk about now that Roe has been overturned, what the current legal landscape looks like?

[00:09:19] **Katie Corwin:** Yeah, so in the wake of Dobbs, we now have a patchwork of states where certain states have abortion bans and certain states are legal states. And I'm just going to give a quick overview.

[00:09:28] **Katie Corwin:** Twelve states have total abortion bans. Four states have six-week abortion bans, two have 12-week bans, one has a 15-week ban, and one more has an 18-week ban. So, these are gestational limits where you can only get care up to the certain week of pregnancy. And just also talking about the number of people that have traveled, in 2023: 171, 000 people traveled to get abortion care.

[00:09:58] **Katie Corwin:** And this has extremely increased [00:10:00] after Dobbs—one in five people are now traveling to get abortions, and before Dobbs in 2020, it was one in ten people. And just one more note on this, the access to telehealth abortions, about 20 percent of abortions are now performed through telehealth.

[00:10:16] **Katie Corwin:** And this was also alluding to what Farah mentioned earlier, that's just the number that we know about. There are a lot of people ordering pills online and self-managing their abortions that we don't have data on. So the number is likely much higher for people accessing abortion on their own.

[00:10:32] **Cindy Soohoo:** Thanks, Katie. I feel like this is like a class on federalism, and were talking about all the harm that, states can do now that there's no federal minimum constitutional standard and just in terms of these crazy laws that have actually criminalized abortion from conception or fertilization and the massive disruption that it's really caused in people's lives.

[00:10:54] Federal Government's Role and Threats

[00:10:54] **Cindy Soohoo:** But so we've talked about the things that the states have done, but what impact does [00:11:00] the federal government have? And

what are the kinds of things that the Trump administration has done to undermine abortion access. And what are the things that you guys are afraid that it might do?

[00:11:10] **Cindy Soohoo:** We're what, only two months in— I think we're seeing things, but I think there are other things that, that you may be anticipating. Amanda, do you want to start?

[00:11:17] **Amanda Allen:** Sure there are really two primary threats that I'm keeping an eye on now that Trump has taken office, and both of them really relate to access to medication abortion.

[00:11:29] **Amanda Allen:** Medication abortion is the majority of abortion patients are actually choosing medication abortion. It is a two drug regimen for the most part, as practiced in the United States, and I mention that because the first drug in the regimen is a drug called mifepristone and that drug is under attack.

[00:11:47] **Amanda Allen:** That drug is under attack by both anti-abortion advocates and possibly RFK Jr. and the incoming director of the FDA. So just to give a couple [00:12:00] of examples— anti-abortion states are right now litigating a case against the, FDA, trying to get them to reinstate a whole host of restrictions that used to be placed on that first drug, on mifepristone.

[00:12:15] **Amanda Allen:** But after years and years of studying the drug and its safety record, FDA lifted over the last eight or so years. And so we have a situation right now where you can get that drug by mail, you can pick that drug up at a pharmacy where, but before, before 2016, you had to pick that drug up in person at a healthcare provider.

[00:12:35] **Amanda Allen:** The drugs label said that you needed to go in for a follow up visit. And go in person for that second drug, so that would require two additional trips to a clinic and what the what the anti-abortion attorney generals are arguing for right now is to travel back in time to before 2016.

[00:12:55] **Amanda Allen:** Where again, this was how, science and medicine have [00:13:00] evolved in a way that we know that the current practice of telemedicine and mailing this medication is not only extremely safe, but also really an important access point—now that we've got a situation as Katie described—where abortion access is decimated and half the country severely restricted or banned.

[00:13:19] **Amanda Allen:** And it's a very technical thing that our opposition is trying to do here, right? It's, you have to understand the FDA approval process and the history of how this medication has been regulated to really wrap your arms around it.

[00:13:32] **Amanda Allen:** But it is one of the most significant, I think threats to access to abortion care, if we go back to a place where, again, patients have to go to a clinic in person to access this drug, back to a place where patients are required to go back to that healthcare provider two times.

[00:13:49] **Amanda Allen:** It's really hard to overstate how difficult that will be for patients who are already navigating so many barriers to leave their states, to flee their states to access this care.[00:14:00]

[00:14:00] **Cindy Soohoo:** Thanks. I just want to also underscore just what an abuse it is, right? Potential abuse of the FDA process in terms of imposing these requirements that really aren't required by the safe practice of medicine.

[00:14:14] **Amanda Allen:** And, the threat could come from this court case, and it could also come from the FDA itself.

[00:14:19] **Amanda Allen:** Just this week Trump's nominee for Director of the FDA said that he was open to reconsidering all of the changes.

[00:14:28] **Amanda Allen:** That again, FDA followed the science, they followed the medical advancements in loosening some of the restrictions on this drug.

[00:14:35] **Amanda Allen:** And then you hear his nominee this week—I'm open to revisiting all of this and he especially noted that he was concerned that this drug was available by mail.

[00:14:45] **Amanda Allen:** And so again, parroting the anti-abortion talking points that this is an unsafe drug, that, abortion providers are these sort of unsavory actors who are, sending it off without properly providing care. And so it was really alarming to hear those remarks [00:15:00] in the hearing this week.

[00:15:02] **Farah Diaz-Tello:** A couple of concerns that I would add are really in keeping with this attack on administrative agencies and the ways that they they interact with our reproductive healthcare.

[00:15:12] **Farah Diaz-Tello:** Two particular balls that we have our eye on right now are attacks on HIPAA, the Health Insurance Portability and Accountability Act and EMTALA, the Emergency Medical Treatment and Active Labor Act, and, to the extent that we have entitlements to anything related to healthcare in this country, this is really the closest it comes.

[00:15:31] **Farah Diaz-Tello:** So HIPAA is a law that is important. It's about a lot of things, but the part that we're concerned with is the way that it governs the privacy of people's health information.

[00:15:41] **Farah Diaz-Tello:** So, anybody who's visited a doctor's office knows, you fill out the paperwork

[00:15:44] **Farah Diaz-Tello:** that you actually like you think it's about the protection of your health information but it's actually about the disclosure of your health information.

[00:15:51] **Farah Diaz-Tello:** Set that aside for a moment.

[00:15:53] **Farah Diaz-Tello:** The EMTALA was a law that was passed in the 90's to prevent patient dumping.

[00:15:56] **Farah Diaz-Tello:** So essentially to ensure that any healthcare facility that receives Medicaid [00:16:00] funds and has an emergency department has to accept people in that emergency department

[00:16:04] **Farah Diaz-Tello:** if they present in an emergency situation including active labor, and that also includes people who may be in need of emergency abortion care.

[00:16:13] **Farah Diaz-Tello:** And what we've seen are concerted attacks by states and by private entities on both of these essentially saying that they conflict either with their state's abortion laws

[00:16:23] **Farah Diaz-Tello:** or with their state's administration of their criminal abortion laws or laws that threaten people who access or help others access gender-affirming care.

[00:16:34] **Farah Diaz-Tello:** So in 2024, HHS, the Department of Health and Human Services, issued a rule that bolstered the protections under HIPAA for

[00:16:42] **Farah Diaz-Tello:** people's sexual and reproductive health information, essentially preventing disclosure that would be used to criminalize people for seeking lawful care.

[00:16:51] **Farah Diaz-Tello:** And that got some people Really Big Mad.

[00:16:54] **Farah Diaz-Tello:** Because some private entities and states want to be able to use that information [00:17:00] that private information that people share with their healthcare providers.

[00:17:03] **Farah Diaz-Tello:** They want to be able to use that information, either for criminal prosecutions or for prosecutions under the family regulation system.

[00:17:10] **Farah Diaz-Tello:** And we know that this is a dangerous thing—because when people are afraid that their healthcare information is going to be disclosed to people who have the power to surveille and punish them—they're going to be deterred from seeking healthcare and they're not gonna share honestly and openly with their healthcare providers the way that we want them to be able to.

[00:17:27] **Farah Diaz-Tello:** And on the EMTALA side, this is really telling people that you can't count on being able to access care in an emergency because a state may want to prioritize the life of an embryo over your own life. And the sum total of these things is really telling people who may need abortion care, who may need gender-affirming care, "you have nowhere to turn."

[00:17:50] **Farah Diaz-Tello:** You may not be able to get the care that you need, and if you do, that information might be able to be used against you. So we're very concerned about the lawsuits that are circulating in the federal courts around.

[00:17:59] **Cindy Soohoo:** And, the other [00:18:00] thing I think about EMTALA is, the people who need those protections the most are actually the people who didn't plan on getting abortions, right?

[00:18:07] **Cindy Soohoo:** Like they can't even plan to travel because these are people with wanted pregnancies who face an obstetric emergency, and they didn't even realize that they were going to get caught in the crosshairs.

[00:18:19] **Farah Diaz-Tello:** Absolutely.

[00:18:21] **Cindy Soohoo:** Katie, did you want to add anything?

[00:18:23] **Katie Corwin:** I can touch on the F.A.C.E Act a little bit. F. A. C. E. stands for Freedom for Access to Clinic Entrances Act, and this act protected abortion clinics and protected the patients going to and from the clinics and the providers.

[00:18:39] **Katie Corwin:** And Trump, one of the first executive orders that he did was he instructed the Department of Justice to no longer prosecute F.A.C.E. Act violations unless they were in extraordinary circumstances and who knows really what circumstances fall under that.

[00:18:56] **Katie Corwin:** Yeah, or in instances of death, extreme [00:19:00] bodily harm or significant property damage And he also pardoned 23 individuals who are convicted for violating the FACE Act.

[00:19:09] **Katie Corwin:** And many of those pardoned were serving prison sentences for physically blocking patients from accessing medical care. So, this is just another tool that he's using to make people fear entering abortion clinics and to provide fear into doctors and other abortion clinicians and just creating a environment where it's less safe to access abortion care through clinics.

[00:19:35] **Cindy Soohoo:** Yeah, it's incredible in terms of the federal government really refusing to enforce the laws that protect pregnant people, protect people who are seeking access to care at clinics and almost, emboldening people who are trying to protest and block access. Okay.

[00:19:52] Strategies for Rebuilding Legal Protections

[00:19:52] **Cindy Soohoo:** So let's turn the page a little bit. Let's actually talk about what the strategies that you and your organizations are engaging in to help rebuild legal [00:20:00] protections for reproductive rights and access to abortion. Katie?

[00:20:02] **Katie Corwin:** Yeah, I can start. So Ohio is actually a really exciting state to be working in right now. In 2023, voters approved the reproductive rights amendment, which is an amendment to the Ohio constitution to protect abortion access in Ohio. And it won pretty overwhelmingly 57 percent of voters voted to approve this measure.

[00:20:23] **Katie Corwin:** And since then we have started striking down a lot of restrictions in Ohio, so Amanda mentioned earlier 48-hour waiting periods.

[00:20:33] **Katie Corwin:** That restriction has now been struck down among others. And of course, the state is still appealing all of these measures. So at the trial court level, we have won every single case that we've brought under the new reproductive freedom amendment.

[00:20:47] **Katie Corwin:** But the state does not think that the voters actually matter and are appealing all of these rulings, wasting a lot of taxpayer dollars while doing this. And we are at the appellate level right [00:21:00] now, so we have not reached the Ohio State Supreme court, but the State Supreme court is pretty alarming.

[00:21:05] **Katie Corwin:** We have a six to seven Republican majority and we are expecting the lone Democrat to be voted out in the next election.

[00:21:14] **Katie Corwin:** So while this Reproductive Freedom Amendment language is really strong and we've been winning under this issue we're still nervous that the Supreme Court will, the State Supreme Court will try to mess with the language and reenact some of these restrictions that we have but able to strike down.

[00:21:33] **Katie Corwin:** So I guess that's hopeful, but there are still things that we're worried about as these move through the courts.

[00:21:40] **Amanda Allen:** This is Amanda. My organization, The Lawyering Project, has really been in the courts, navigating a two-pronged strategy. So state courts, Katie gave such a great example of the importance of state courts and really implementing the ballot initiative wins that we've seen. Making sure that voters, [00:22:00] voices are actually like the results of their very clear message that they actually want to see abortion access in their states.

[00:22:06] **Amanda Allen:** Seeing that actually play out in real life and really seeing access improved, that's really important. And we have a couple of cases in state courts, under state constitutions really trying to make sure that we are building up that body of law.

[00:22:21] **Amanda Allen:** But at the same time, we feel very strongly that we can't give up on the federal courts, even though it feels like they have turned their backs on us.

[00:22:29] **Amanda Allen:** We, just observed that the anti-abortion folks did not give up for the entire, nearly 50 years after Roe. And it may be a really long haul, but we need to keep at it in federal courts and really leverage the federal constitutional protections that we still have.

[00:22:46] **Amanda Allen:** And to that end, we have a number of cases in federal courts, asserting rights to free speech, asserting rights to travel, asserting rights to religious freedom.

[00:22:55] **Amanda Allen:** And these are all things that the kind of a [00:23:00] swath of abortion restrictions that have passed since Dobbs really get at the heart of.

[00:23:06] **Amanda Allen:** So for example, two states, Idaho and Tennessee, passed laws that say you can't provide any support to a young person who's trying to leave that state to access care.

[00:23:18] **Amanda Allen:** And so we've challenged those laws in federal court and saying, wait a second, you have a right, a First Amendment right to association, to speech, to providing information and support, and those rights are still guaranteed by our Constitution, even if the right to abortion isn't anymore.

[00:23:34] **Amanda Allen:** We have a case in South Carolina, first of its kind as far as we know, asserting the religious freedom rights of providers in that state, saying we are, our religious beliefs are actually threatened by this abortion ban and by the inability to provide life-saving care to our patients. And we're really seeing the battle in the courts being both at the state and federal levels and not giving up on federal courts even as, [00:24:00] they've become increasingly hostile toward us.

[00:24:05] **Farah Diaz-Tello:** So for If/When/How, our work really pertains to state violence in people's lives based on their reproductive outcomes.

[00:24:14] **Farah Diaz-Tello:** So it means that we have to be constantly playing offense and defense at the same time.

[00:24:18] **Farah Diaz-Tello:** And we did this in a lot of different ways, our work encompasses a combination of direct legal services, strategic advocacy and organizing the legal community.

[00:24:31] **Farah Diaz-Tello:** So some of the things that we do that are directly in service of people's immediate needs are we run the Repro Legal Helpline where people can call and get legal advice and information about any issues that may be coming up in their reproductive lives.

[00:24:47] **Farah Diaz-Tello:** Whether that is the threat of criminalization or report to the family regulation system or denials of care.

[00:24:54] **Farah Diaz-Tello:** We receive a wide range of calls and can give people advice, connect them to services and even [00:25:00] connect them to our litigation team if they're in need of criminal defense.

[00:25:03] **Farah Diaz-Tello:** We also do direct criminal defense representation on behalf of people who are charged with a crime based on their pregnancy outcome.

[00:25:12] **Farah Diaz-Tello:** Whether they're accused of having self-managed an abortion or were having essentially reacted improperly in the eyes of the state to a pregnancy loss.

[00:25:22] **Farah Diaz-Tello:** We also run the Repro Legal Defense Fund, which is a defense fund that covers bail and other costs associated with being caught up in the criminal legal system and other systems so when people find themselves ensnared in these systems, they have somewhere to turn to.

[00:25:39] **Farah Diaz-Tello:** And but it's not enough to just be like meeting those immediate needs as they come up, right? We also have to be making changes on the broader level—so we also do policy advocacy both defensive and offensive, —some of the things that we're working on right now.

[00:25:51] **Farah Diaz-Tello:** We're working with advocates in Nevada to repeal the last remaining criminal ban on self-managed abortion in the entire country.

[00:25:58] **Farah Diaz-Tello:** Even South Carolina and [00:26:00] Oklahoma have repealed their bans on self-managed abortion so it's time for Nevada to step-up.

[00:26:05] **Farah Diaz-Tello:** And we're also working on a bill in Washington State that affirms people's dignity and pregnancy loss, and so what that does is it removes coroners from people's pregnancy losses essentially ensuring that

people aren't automatically referred to law enforcement in the event they experience a pregnancy loss.

[00:26:22] **Farah Diaz-Tello:** It also repeals an antiquated law on concealing a birth which was, it's 18th century law that gets used against people when essentially when law enforcement can't find another way to charge them with a crime based on the outcome of their pregnancy.

[00:26:36] **Farah Diaz-Tello:** And also requires the state to track pregnancy losses that occur in detention, whether that's immigration facilities or state or federal prisons to make sure that those are being captured.

[00:26:48] **Farah Diaz-Tello:** And then we also use the legal research that we do and turn it around and train healthcare providers and other power holders within health institutions

[00:26:58] **Farah Diaz-Tello:** to interrupt criminalization in [00:27:00] their facilities by developing policies, by protecting their patient's privacy and not turning them over to law enforcement

[00:27:06] **Farah Diaz-Tello:** and really helping them understand that they're not required to report people for having had an abortion to law enforcement and that in fact, they are obligated to uphold their patient's confidentiality.

[00:27:18] **Farah Diaz-Tello:** And I should also note that our that program, as well as our Repro Legal Defense fund are also helmed by CUNY alum, so there's a strong representation at If/When/How of CUNY folks;

[00:27:30] **Farah Diaz-Tello:** and I think that it's our orientation to using the law to meet human need that really calls folks who were called to CUNY to also come work with us at If, When, How.

[00:27:41] **Cindy Soohoo:** Thanks Farah. That is really helpful in us thinking about the full range also of legal work that people can do in terms of federal and state litigation, legislative reform, training, policy. There are just so many different ways that I think we can try to rebuild protections.

[00:27:56] **Cindy Soohoo:** I don't know if Amanda wanted to add anything in terms [00:28:00] of legal protections or really efforts to meet the immediate needs of people. Because I think part of the conservative strategy is to expand threats of prosecution and civil liability and I think there are a lot of people who really don't know what their rights are and, part of it is they're trying to sow

fear. So maybe, do you have anything more to add in terms of helping people meet the need for legal information or other things?

[00:28:24] Innovative Legal Responses and SHIELD Laws

[00:28:24] **Amanda Allen:** One thing I'll just add as an additional layer for the legal landscape right now is that

[00:28:30] **Amanda Allen:** Dobbs really called for a creative and innovative response to the huge swath of states that now ban abortion.

[00:28:38] **Amanda Allen:** And so in response, a number of states passed what we refer to as SHIELD laws that essentially create a zone of legal safety around abortion providers, and anyone supporting someone accessing care. and in a handful of those states that zone of legal protection extends to telemedicine care.

[00:28:57] **Amanda Allen:** And a provider in Massachusetts, for [00:29:00] example, practicing under their SHIELD law, if they are providing care consistent with Massachusetts law and consistent with the standard of care, cannot be extradited to Texas, for example, for providing a care, providing medication abortion to a patient in Texas their Massachusetts license can't they can't experience any discipline and be professional discipline. against their, license to practice medicine.

[00:29:27] **Amanda Allen:** There's a number of those kinds of legal protections and again, several states have adopted them. One thing that I think we're watching very closely is that those laws have yet to be tested in courts.

[00:29:38] **Amanda Allen:** And the first couple of cases have been filed aimed at doing exactly that, and so the state of Texas has sued an abortion provider in New York who is practicing under the New York SHIELD law that's a civil case and that same provider was indicted in Louisiana on criminal charges for providing medication abortion to, somebody [00:30:00] in Louisiana.

[00:30:00] **Amanda Allen:** And while these are really innovative and really necessary strategies to really filling the access gap that has persisted since Dobbs,

[00:30:09] **Amanda Allen:** it remains to be seen whether these laws will hold up in court.

[00:30:13] **Amanda Allen:** And that, that sort of brings me to one of the things The Lawyering Project does is we provide free legal advice for abortion providers, and their supporters, like abortion funds and practical support organizations, who are really trying to figure out like what are my legal risks in this environment? What are the strengths and maybe some of the weaknesses of SHIELD laws? What should I start practicing under my state's SHIELD law?

[00:30:37] **Amanda Allen:** And so that's another type of legal work and legal service that we offer the community is really trying to understand.

[00:30:45] **Amanda Allen:** It's a, again, like you said, Professor Soohoo, it's the whole point has been to cause confusion and chaos, and we're really trying to cut through a lot of that noise and provide legal advice that really spells out exactly what the risks are and how to mitigate those [00:31:00] risks.

[00:31:01] **Cindy Soohoo:** Thanks, Amanda. And I feel we're talking these days about the danger of overcompliance, right, because the Trump administration and the anti-abortion forces really are making these broad claims.

[00:31:11] **Cindy Soohoo:** Some, a lot of them are ridiculous, but trying to create fear and confusion, and it's so important, I think, for people to actually have information.

[00:31:20] **Cindy Soohoo:** This is an important job of lawyers, trying to figure out what the laws are, what the risks are, so that people can figure out what the line is, and not over-comply and go to the line, some people might want to go over the line, but they need to know what the risks are, and I feel like that's our job as lawyers.

[00:31:36] Impact of CUNY Training on Legal Advocacy

[00:31:36] **Cindy Soohoo:** All right, I want to ask you guys how you think your training at CUNY has really impacted how you're responding in this moment.

[00:31:44] **Katie Corwin:** I can start, this is Katie, I am a very recent law graduate, and so I actually learned Roe v. Wade my first year of law school.

[00:31:53] **Katie Corwin:** And it has just been really crazy to see Dobbs came down the summer after my [00:32:00] first year of law school, so it's just been really crazy to see how quick everything has changed.

[00:32:06] **Katie Corwin:** And we expected this was coming and I worked in Repro before law school so I knew that this was coming, but it was still really just devastating for the movement.

[00:32:17] **Katie Corwin:** And I think at CUNY, every class I took did a really good job of explaining how the law that we're learning, like the black letter law, is actually implemented in real life. And I think that's unusual for law schools to do that.

[00:32:32] **Katie Corwin:** And it has just really prepared me to look at the law in a unique way—and in a creative way—and to try to think outside the box of what the black letter law says.

[00:32:43] **Katie Corwin:** And I think CUNY really fostered an environment for creative thinking and creative lawyering skills.

[00:32:50] **Katie Corwin:** And so that has helped me now, especially in Ohio with the Ohio Reproductive Freedom Amendment; that's all new law. We're all trying to make it up as we go and create [00:33:00] good law. So that has really helped me just to conceptualize things.

[00:33:06] **Farah Diaz-Tello:** So for me, a lot of what I really, what was formative to me about my CUNY education is that I don't actually know if they do things this way – I'm older than the hills, so I have no like idea whether or not this is like still how they do it. But Constitutional Law was taught to us in the first year. It was called law Liberty, Equality, and Due Process. I don't know if that's still the case, but it was very much like a like very closely focused on the 14th Amendment. And then in the next semester, we got no, I actually think it's the next year sorry I always had like I had a baby at that point. It was Law and Family Relations and that was another again like a very sort of laser-focus on substantive due process.

[00:33:48] **Farah Diaz-Tello:** And, at that time, we didn't really have access to the language of reproductive justice really broadly, or at least I didn't being somebody who came from Texas, like that was [00:34:00] not the language that people were using it was still very much about like "reproductive choice" that you know that very much in a sort of "reproductive rights" as opposed to reproductive justice frame. Going to CUNY and seeing these rights and the way

that they were all intertwined in particular law and family relations—that essentially that was a reproductive justice class because we looked at issues like the right to abortion, but also the right to form families, the right to maintain custody and care of one's children and all these things are wrapped up very neatly in a package that meant that to me, as I learned them, they were always contiguous. It wasn't like I had to make a shift from thinking about like our abortion rights to our rights to make decisions about our bodies when we give birth to the right, our right to maintain family integrity, right? These things were already put together and that was, like by design, a part of the CUNY education.

[00:34:50] **Farah Diaz-Tello:** And then the other thing that I always tell people is that there's this sort of magic to the fact that all of the professors have their sort of like "Clark Kent" identity and in their like, Superman identity. So like [00:35:00] contracts, boring class—sorry but was taught by Julie Goldscheid, who had argued landmark cases before the Supreme Court.

[00:35:07] **Farah Diaz-Tello:** And so you would always get these little flickers of moments where it's whatever, offer acceptance consideration. And we have to take into account that this was when women were chattel. And so like always that sort of reminder of the fact that, the law isn't just, it wasn't just handed down from on high, it was created by people and was a part, was a function of the time in which it was created. And so we always need to be looking with a critical eye at the structures and not just accepting them at face value and always be pushing to make them better and make them more accessible and make them for everybody. So that's what I learned.

[00:35:44] **Amanda Allen:** Yeah, this is Amanda. I completely agree with what was said, and I'll just add that I think really foundational to my CUNY education was that the law is a tool of white supremacy, and that, that kind of colored every class I took, [00:36:00] every analysis I took on, and I think it really translated throughout my legal career into understanding that the identities that people hold really play a huge role in how they're treated by the legal profession whether that's a client, whether that's co-counsel and so really trying to make sure that in all the work I do, I am laser-focused on that disproportionate impact that the law has on communities that are over-policed, that are subject to surveillance.

[00:36:31] **Amanda Allen:** And that might change the way I advise a client who might be from a community that is subject to that kind of over-policing and that kind of over-surveillance their legal risks might look very different than a client who is white and has a medical degree and I think that sort of understanding how systemic racism, systemic classism, all of these systemic

isms that are experienced differently by [00:37:00] different people will affect how the law impacts them and the choices that they may need and want to make as a result.

[00:37:10] **Cindy Soohoo:** Thanks guys. It's so amazing to actually get to be in conversation with you guys. I think that our time is running out.

[00:37:16] Call to Action and Resources

[00:37:16] **Cindy Soohoo:** So I'm gonna ask you if there's any action that you would encourage listeners to do, or if there are any resources or information that you want to share.

[00:37:26] **Farah Diaz-Tello:** I want everybody who's listening to become a part of the If/When/How family. So we have student chapters on law schools. We have always had a robust presence on the CUNY campus, I feel very proud to say. But also for people who are lawyers or who just want to be advocates in their community the If/When/How network is a great place to get tied into just how you can help.

[00:37:50] **Farah Diaz-Tello:** And that may be things like for lawyers providing assistance in a criminal defense case or a case in the family regulation [00:38:00] system. There is always something happening. And so that's the best way for folks to to join in and figure out how they can pitch in.

[00:38:07] **Amanda Allen:** I will just put a plug in for your local abortion fund or practical support organization. These are groups that exist all, all across the country and they were, they're really the experts in connecting people with the abortion care that they need. And so abortion funds are always taking donations. I always recommend people go there first if they're wondering, where can I give?

[00:38:28] **Amanda Allen:** A lot of the big national organizations, my, my own included don't need your, don't need your monthly donation the same way that an abortion fund does. It might be the difference between somebody getting an abortion or not. And they can also, and you can also volunteer your time there. I know people who are hosts for, they volunteer their homes to, to house people who are traveling for care.

[00:38:48] **Amanda Allen:** They volunteer their time on answering intakes and things like that. And so really put a plug in to getting to know your local

abortion fund and the folks who are already doing this work in your [00:39:00] community to to connect people to care.

[00:39:04] **Katie Corwin:** I actually subscribe to a newsletter called Abortion Every Day, and unfortunately it is behind a paywall, but I don't think it is very expensive and it's from the journalist Jessica Valenti, and she is not a lawyer, but she does a really good job analyzing policies and laws and making them digestible for non-lawyers. But also just she's really showing the consequences of all of these harmful laws that are enacted.

[00:39:34] **Katie Corwin:** And I think also what I really appreciate from her is she focuses a lot on things happening in the state, so it's not so nationally-focused. She does a really good job of highlighting what's happening in different states.

[00:39:49] **Cindy Soohoo:** Do you guys have a listserv or anything that people should subscribe to?

[00:39:55] **Farah Diaz-Tello:** Yeah, so certainly we have a our network has a newsletter that goes out every so often. [00:40:00] But I think in terms of like up-to-the-minute information one of the sources that I've always turned to is Rewire News used to be RH Reality Check way back in the day, but they do a lot of great reporting.

[00:40:13] **Farah Diaz-Tello:** Their insight analysis is always super sharp. So definitely recommend Rewire News.

[00:40:21] **Cindy Soohoo:** Thank you guys so much. It really has been so great to be in conversation with you and really appreciate you taking the time and it's always good to be talking to CUNY alums. So thank you.

[00:40:34] **Amanda Allen:** Thank you for having us.

[00:40:35] Conclusion and Final Thoughts

[00:40:35] **Milik Robinson:** You've been listening to sustain. Conversations and advocacy at CUNY Law.

[00:40:45] **Milik Robinson:** Thanks for listening and for carrying it forward.

[00:40:47]

[00:40:47] **Cindy Soohoo:** But we're still fighting that fight. And I think it's important for us to recognize that it's been a long fight to work for real access to abortion, maternity, and sexual and reproductive healthcare. And that, uh, that fight [00:41:00] predates this current Trump administration and the overturning of Roe versus Wade in 2022, and that this fight continues to this day.