Essays

Erasing Care. Banning and Shadowbanning Preventative Sexual Health in the US

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ABSTRACT: This paper explores the evolving legal landscape of sexual health in the United States, focusing on contraception and HIV prevention. It examines how legal tools – through regulation, litigation, and executive action – have been strategically used to restrict access to care. Tracing comparisons between challenges to the Affordable Care Act's Contraceptive and PrEP mandates, the analysis situates these conflicts within broader cultural, ideological, and economic battles over public health, federalism, bodily autonomy, and equality, culminating in a legal moment where sexual health is not merely debated but weaponized.

KEYWORDS: Sexual Health; contraception; HIV prevention; US Supreme Court; equality

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1. Introduction

As the Supreme Court prepares to issue a pivotal ruling on the constitutionality of the Affordable Care Act's PrEP Mandate – the mandatory covering of the HIV pre-exposure prophylaxis drugs under the ACA – the stakes for sexual and reproductive health policy in the United States have rarely been higher. The case – echoing the decade-long legal battles over the ACA's Contraceptive Mandate – marks a critical juncture in the evolving use of the courts to shape, restrict, or dismantle sexual health protections. Much like the earlier wave of litigation that contested birth control coverage on religious and ideological grounds, the PrEP litigation reflects a broader strategy of leveraging constitutional arguments to challenge the infrastructure of preventive health care.
This moment calls for a deeper examination of how legal mechanisms are being deployed not only to adjudicate rights but to reshape the contours of sexual health governance actively, and to understand why this goes beyond the US context. Indeed, these cases illustrate the risks of cultural shifts in sexual healthcare policy, where legal challenges framed as protecting religious freedom, free speech, parental

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rights, and administrative procedures become tools to systematically restrict access to essential health services. As a matter of fact, such developments serve as a warning about how the legal system can be weaponized by ideological battles, threatening bodily autonomy as well as public health. Thus, by studying the US experience, we gain insights into a broader global dynamics where legal, political, and cultural forces intersect to reshape sexual health policy, at the expense of vulnerable and marginalized populations.

Through an analysis of shifting regulation, litigation, and legislative efforts, the paper examines the evolving legal and political landscape of sexual health in the US, focusing on the intersection of contraception and HIV prevention. In this context, scholars of different fields have defined the current scenario as "lawfare", referring to the strategic application of legal tools and frameworks to obstruct sexual health policies.[1] Indeed, these legal battles involve multiple actors, including conservative administrations, religious organizations, and advocacy groups mobilizing to restrict sexual health services. The judiciary, particularly the Supreme Court and lower federal courts, has become a crucial arena where these struggles play out. By analyzing key cases and regulatory shifts, this study reveals how litigation and judicial interpretation are strategically deployed to institutionalize conservative moral and political values within sexual health policy.

Beginning with the Obama administration's efforts to expand access to birth control with the ACA, the first section delves into the Contraceptive Mandate's pushback on religious freedom grounds. It then analyzes the first Trump administration, which aggressively rolled back these protections, framing the legal struggle as a conflict between religious freedom, free speech, and Title X to restrict access to contraception further. The second section shifts focus to the landscape under the Biden administration, examining how the sexual and reproductive fight evolved in response to the Supreme Court's decision concerning abortion in *Dobbs v. Jackson Women's Health Organization* (2022). It then situates the PrEP Mandate within this broader battle, highlighting the parallels between legal strategies used to undermine contraception and those targeting HIV prevention. The rise of PrEP as a transformative health tool is explored alongside the legal and ideological opposition that has sought to limit its accessibility. Ultimately, the final section examines the new Trump era, where contraception and PrEP face renewed challenges. It investigates how the new administration's policies are shaped by both moral

[1] Lawfare strategically leverages legal mechanisms to advance political, ideological, or economic agendas, weaponizing the rule of law to suppress rights or entrench power structures. Unlike legal mobilization, which historically sought progressive change, lawfare is frequently used by state and corporate entities to obstruct social and legal progress. This is particularly evident in sexual and reproductive rights, where restrictive laws on abortion, contraception, PrEP, and gender-affirming care reflect a politicized battle over bodily autonomy and equality. Differing from conventional advocacy, lawfare often imposes moral or religious doctrines through litigation, regulation, and legislation, exposing the law's role as a tool of ideological control rather than a neutral framework for justice. *See* S. GLOPPEN, *Conceptualizing Lawfare: A Typology & Theoretical Framework*, in *Centre on Law and Social Transformation*, 2018, CMI & University of Bergen, Norway; A.E. YAMIN, N. DATTA, X. ANDIÓN IBAÑEZ, *Behind the Drama: The Roles of Transnational Actors in Legal Mobilization Over Sexual and Reproductive Rights*, in *Georgetown Journal of Gender and the Law*, 19, 533, 2018; J. HANDMAKER, *Introduction to the legal mobilization special focus*, in *Journal of Human Rights Practice*, 15, 1, 2023, 1–5; T. MATTHEWS, *Interrogating the Debates Around Lawfare and Legal Mobilization: A Literature Review*, in *Journal of Human Rights Practice*, 15, 1, 2023, 24–45; T. JONES, *Trans Bans Expand: Anti-LGBTIQ+ Lawfare and Neo-fascism*, in *Sexual Research and Social Policy*, 2024.

imperatives and financial interests, examining the connection of lawfare with the digital sphere, where shadowbans – like bans – function as new suppression tools.
Ultimately, the paper argues that sexual health is not only a cultural battleground over autonomy and equality, but also a site where the dialectic of federal and state powers constructs legal concepts and tools as weapons, enabling a deliberate and long-term campaign to redefine public health through legal, executive, and technological means. While rooted in the US, this campaign carries implications that could extend well beyond its borders.

2. The Contraceptive Mandate

2.1. The Obama Era and Religious Freedom's Legal Challenges

Since *Griswold v. Connecticut* (1965), the Supreme Court has affirmed constitutional protections for contraceptive access, recognized first a married couple's right to contraception under the constitutional right to privacy,[2] and then extended these protections regardless of marital status.[3] Finally, the Court struck down laws restricting minors' access to contraception and limiting the sale of non-prescription contraceptives, further reinforcing contraception as a fundamental privacy right.[4] However, despite these legal precedents, contraceptive access remained inconsistent, with private insurance coverage often requiring out-of-pocket costs that posed barriers to reproductive healthcare.
The Affordable Care Act (ACA), signed into law by President Obama in March 2010, marked a transformative moment in US healthcare policy, aiming to improve healthcare affordability and access by expanding Medicaid (where adopted), offering premium subsidies for low-income households, and promoting cost-effective care models.[5] A significant component of the ACA in preventative care was its so-called Contraceptive Mandate, which required health insurance plans to cover the full cost of all Food and Drug Administration (FDA) approved contraceptive methods, ensuring broad and equitable access to contraception.[6]
Despite its intent, the contraceptive mandate quickly became a focal point for legal and political controversy. Critics, particularly from religious organizations and conservative groups, argued that requiring employers to provide contraceptive coverage infringed upon their religious freedoms and protection recognized by the Religious Freedom Restoration Act (RFRA). The RFRA prohibits the federal government from imposing a "substantial burden" on an individual's exercise of religion unless it demonstrates that it is the least restrictive means of furthering a compelling government interest.[7] In

[2] *Griswold v. Connecticut*, 381 U.S. 479 (1965).
[3] *Eisenstadt v. Baird*, 405 U.S. 438 (1972).
[4] *Carey v. Population Services International* 431 U.S. 678 (1977).
[5] *Patient Protection and Affordable Care Act of 2010* (ACA), Pub. L. No. 111-148, 124 Stat. 119 (2010).
[6] *Patient Protection and Affordable Care Act of 2010* (ACA), Pub. L. No. 111-148, § 2713, 124 Stat. 119 (2010), codified as amended at 42 U.S.C. § 300gg-13 (2012).
[7] *Religious Freedom Restoration Act of 1993* (RFRA), Pub. L. No.103-141, § 3, 107 Stat. 1488, codified as 42 USC § 2000bb-4 (2018). The Act was enacted in response to the *Smith* ruling, where the Supreme Court upheld the denial of unemployment benefits to individuals dismissed for using peyote in a religious ceremony. Justice Scalia, writing for the majority, ruled that the Free Exercise Clause does not require exemptions from neutral, generally applicable laws, even when they burden religious practices. See *Employment Division v. Smith*, 494 U.S. 872

response, the Department of Health and Human Services (HHS) introduced exemptions and accommodations to balance public health objectives with religious liberty concerns.[8] Specifically, distinctly religious employers were granted a full exemption from the mandate, and other non-profit religious organizations with objections could apply for accommodation.[9] However, these accommodations failed to address the controversy. Indeed, initially excluded from these provisions, for-profit companies sought similar exemptions, claiming violations of their rights. Simultaneously, some religious non-profits argued that even indirect compliance conflicted with their beliefs, advocating for complete exemption. As a result, the ACA's Contraceptive Mandate became a focal point in the broader debate over the balance between health policy, religious liberty, and equity/equality,[10] leading to legal battles involving the executive branch, lower courts, and the Supreme Court.[11]

Hobby Lobby Stores, a closely held, for-profit corporation owned by the Evangelical Christian Green family, objected to the mandate on religious grounds. The family argued that four specific contraceptives covered under the mandate – including Plan B and intrauterine devices (IUDs) – were equivalent to abortifacients and thus contrary to their deeply held Christian values and in violation of the RFRA by imposing a substantial burden on their religious beliefs.[12] The legal question before the Court was

(1990). This decision departed from earlier rulings, such as *Sherbert*, which required the government to demonstrate a compelling interest when a law burdened religious exercise. See *Sherbert v. Verner*, 374 U.S. 398 (1963). Following *Smith*, Congress passed RFRA to restore the "compelling interest" test, as previously applied, and to ensure that laws substantially burdening religious exercise must serve a compelling governmental interest and employ the least restrictive means. Congress intended RFRA to provide broad protections for religious freedom, addressing concerns raised in other rulings during the '80, such as *Lyng v. Northwest Indian Cemetery Protective Association*, where the Court found that only coercive burdens on religious exercise warranted heightened scrutiny. See *Lyng v. Northwest Indian Cemetery Protective Association*, 485 U.S. 439 (1988).

[8] *Code of Federal Regulation* (CFR), Title 45, § 147.131 "Accommodations in connection with coverage of certain preventive health services".

[9] These "eligible organizations" were recognized under § 6033 "Returns by exempt organizations" (a)(3)(A)(i) or (iii) and the description of § 501 "Exemption from tax on corporations, certain trusts, etc." (c)(3) of the Internal Revenue Code. See *Internal Revenue Code of 1986* (IRC), Pub. L. 99–514, § 2, 100 Stat. 2095 (1986).

[10] Criticism does not involve only the conservative parties worried about the religious liberties infringement but also progressive parties, which pointed out how explicitly making a sex classification entitling only women to free birth control access, the "women's mandate" perpetuated contraceptive inequity confirming the stereotype of contraception as a "woman responsibility". *See* A. SONFIELD *Rounding Out the Contraceptive Coverage Guarantee: Why 'Male' Contraceptive Methods Matter for Everyone*, in *Guttmacher Policy Review*, 18, 2, 2015, 34-39; D. GREER *Contraceptive Equity: Curing the Sex Discrimination in the ACA's Mandate*, in *Alabama Law Review*, 71, 2, 2019, 499-559.

[11] For a broader reconstruction of the debates and cases, see J. BLACKMAN, *Unraveled. Obamacare, Religious Liberty, and Executive Power*, Cambridge, 2016.

[12] The Green family filed suit in September 2012 in the US District Court for the Western District of Oklahoma, challenging the ACA's contraceptive mandate under the First Amendment, RFRA, and the Administrative Procedure Act (APA). In November, the District Court denied their motion for a preliminary injunction, holding that for-profit corporations lacked constitutional rights to religious freedom and that the mandate served a legitimate government purpose. See *Hobby Lobby v. Sebelius*, 870 F. Supp. 2d 1278 (W.D. Okla. 2012). The Greens appealed to the Tenth Circuit and initially denied an emergency injunction pending appeal. See *Hobby Lobby v. Sebelius*, 2012 WL 6930302 (10th Cir.), as did Justice Sotomayor when the plaintiffs sought relief from the Supreme Court. See *Hobby Lobby v. Sebelius*, 133 S.Ct. 641 (2012). However, in June 2013, the Tenth Circuit, sitting en banc, reversed the district court's decision, ruling that the plaintiffs could bring RFRA claims and had shown a likelihood of success on the merits, as well as irreparable harm. See *Hobby Lobby Stores, Inc. v. Sebelius*, 723 F.3d 1114

ISSN 2284-4503

whether RFRA's protections extended to for-profit corporations like Hobby Lobby and Mardel – owned by one of the Green Sons – allowing them to claim religious exemptions from generally applicable laws. The case was consolidated with the appeal brought to the Supreme Court by Conestoga Woods Specialties, which previously lost its lawsuits in the Third Circuit Court.[13] In a 5-4 decision, the Court ruled that closely held for-profit corporations could deny contraceptive coverage based on their owners' religious beliefs. Writing for the majority, Justice Alito affirmed that RFRA applied to corporations, asserting that "protecting the free-exercise rights of corporations like Hobby Lobby, Conestoga, and Mardel protects the religious liberty of the humans who own and control those companies". The Court determined that the Contraceptive Mandate imposed a "substantial burden" on the Green family's religious exercise and that the government had not used the least restrictive means to achieve its goal of expanding contraceptive access.[14] In her dissent, Justice Ginsburg, joined by Justice Sotomayor and partially by Justices Breyer and Kagan, criticized the ruling's broad implications, emphasizing that RFRA was never meant to apply to for-profit corporations, and asserting that "the exercise of religion is characteristic of natural persons, not artificial legal entities". The dissenting opinion cautioned that the Court's expansive interpretation of RFRA, permitting commercial enterprises to exempt themselves from any law – except tax laws – based on their religious beliefs, set a dangerous precedent.[15]

Far from being concluded, the battle continued. In November 2016, the Supreme Court consolidated seven cases under *Zubik v. Burwell*. In these cases, the lower courts had largely upheld the government's accommodation process. For instance, the Third Circuit *Zubik v. Burwell* (2015) ruled that the accommodation did not substantially burden the petitioners' religious exercise under RFRA, a position echoed by the Fifth Circuit in *East Texas Baptist University v. Burwell* (2015), the Tenth Circuit in *Little Sisters of the Poor Home for the Aged v. Burwell* (2015), and the D.C. Circuit in the previous *Priests for*

(10th Cir. 2013). The district court subsequently granted a temporary injunction, followed by a longer-lasting order in July 2013. The government petitioned for Supreme Court review, and certiorari was granted.

[13] The Hahn family, Mennonite Christian owners of Conestoga Wood Specialties Corp., filed suit on December 4, 2012, in the US District Court for the Eastern District of Pennsylvania, arguing that the ACA's contraceptive mandate violated their rights under the First and Fifth Amendments, RFRA, and the APA. In December 2012, the court issued a temporary restraining order blocking enforcement of the mandate for 14 days, citing irreparable harm. See *Conestoga Wood Specialties Corp. v. Sebelius,* 2012 WL 7055773 (E.D. Pa. Dec. 28, 2012). However, in January 2013, the court denied the plaintiffs' motion for a preliminary injunction, holding that RFRA did not protect for-profit corporations and that the mandate served a legitimate government purpose. See *Conestoga Wood Specialties Corp. v. Sebelius,* 2013 WL 140110 (E.D. Pa. Jan. 11, 2013). The plaintiffs appealed, and in February 2013, the Third Circuit denied their emergency motion for an injunction pending appeal, upholding the district court's reasoning. See *Conestoga Wood Specialties Corp. v. Sebelius*, 2013 WL 1277419 (3d Cir. Feb. 8, 2013). After hearing arguments, the Third Circuit affirmed the district court in August 2013, ruling that RFRA did not extend to for-profit corporations. See *Conestoga Wood Specialties Corp. v. Sebelius*, 724 F.3d 377 (3d Cir. 2013).

[14] *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014), cit. 18.

[15] Justice Ginsburg J., *Burwell v. Hobby Lobby Stores, Inc.* Dissenting Opinion, cit. 14. To a broader view of the rulings criticism *see* P. HORWITZ, The "Hobby Lobby" Moment, Harvard Law Review, 128, 1, 2014, 154–189; B. ADAMS, C. BARMORE, *Questioning Sincerity: The Role of the Courts after Hobby Lobb*y, in *Standford Law Review*, 67, 2014; A. J. Sepinwall, *Conscience and Complicity: Assessing Pleas for Religious Exemptions in "Hobby Lobby's" Wake*, in *The University of Chicago Law Review*, 82, 4, 2015, 1897–1980; BROWN W., *When Persons Become Firms and Firms Become Persons: Neoliberal Jurisprudence and Evangelical Christianity in Burwell v. Hobby Lobby Stores, Inc*, in M. CONSTABLE, L. VOLPP, B. WAGNER (Eds.), *Looking for Law in All the Wrong Places: Justice Beyond and Between*, New York, 2019, 169–188.

Life v. Burwell (2014). These organizations challenged the government's accommodation process, which required them to inform either their insurers or the federal government of their religious objections. The petitioners contended that even this notification process imposed a substantial burden on their religious exercise, as it rendered them complicit in facilitating access to contraception, which they opposed on religious grounds.[16]

In May 2016, the Supreme Court issued a *per curiam* opinion vacating the lower court rulings and remanding the cases for further review. Without deciding on the merits, the Court acknowledged that supplemental briefs suggested insurers could provide contraceptive coverage without the petitioners' involvement. It clarified that the ruling did not affect the government's authority to provide contraceptive coverage under the ACA, nor did it indicate a position on the validity of the petitioners' claims. The lower courts were directed to evaluate whether this or alternative solutions could reconcile religious objections with employees' access to full contraceptive coverage. In a concurring opinion, Justices Sotomayor and Ginsburg stressed that the remand allowed for a more precise balance between religious liberty and healthcare access, reaffirming that the decision did not reflect the Court's stance on the substantive legal issues.[17]

The Supreme Court's decision to vacate the lower courts' rulings left unanswered the larger legal issues connected to the RFRA, which significantly gained importance following President Trump's election.

2.2. The First Trump Era: A Contemporary Civil War

2.2.1. Legal Challenges Between Religious Liberty and Free Speech

The Trump administration's approach to the ACA's Contraceptive Mandate – and more in general to sexual and reproductive health – marked a significant departure from the policies of the Obama administration, revealing an active participation in the dismantling and boycotting of sexual and reproductive health both domestically and internationally. First executive order reintegrated the Mexico City Policy (known as the "global gag rule"), which prohibits the US Agency for International Development from awarding funds to nongovernmental organizations (NGOs) around the world that provide abortion health care and information.[18]

Later, in May 2017, President Trump issued an Executive Order directing federal agencies to address exemptions to the Contraceptive Mandate for entities with religious or moral objections.[19] Following

[16] *Zubik v. Burwell*, 778 F.3d 422 (3d Cir. 2015); *Geneva College v. Burwell*, 778 F.3d 422 (3d Cir. 2015); *East Texas Baptist University v. Burwell*, 793 F.3d 449 (5th Cir. 2015); *Little Sisters of the Poor Home for the Aged v. Burwell*, 794 F.3d 1151 (10th Cir. 2015); *Southern Nazarene University v. Burwell*, 794 F.3d 1151 (10th Cir. 2015); *Priests for Life v. Burwell*, 772 F.3d 229 (D.C. Cir. 2014); *Roman Catholic Archbishop of Washington v. Burwell*, 772 F.3d 229 (D.C. Cir. 2014).

[17] *Zubik v. Burwell*, 578 U.S. (2016). For a critique addressing the religious claims in both Hobby Lobby and Zubik in a broader context of equality issue see D. NEJAIME, R. B. SIEGEL, *Religious Accommodation, and Its Limits, in a Pluralist Society*, in W. N. ESKRIDGE JR, R. FRETWELL WILSON, *Religious Freedom, LGBT Rights, and the Prospects for Common Ground*, Cambridge, 2018, 69-81.

[18] To a broader reconstrution of the first Trump Administration role in dismantling sexual and reproductive healthcare see S. MANCINI, *Il canarino nella miniera del liberalismo: i diritti riproduttivi nell'America di Trump*, in *BioLaw Journal*, 2021, 2, 257-281.

[19] Presidential Executive Order, *Promoting Free Speech and Religious Liberty*, No. 13798, 82 Fed. Reg. 21675 (May 4, 2017).

this directive, the HHS and the Department of Labor and Treasury issued Interim Final Rules (IFRs), extending eligibility beyond religious objections to include moral objections and broadening the scope to encompass nonprofit and for-profit entities, publicly traded corporations, insurers, and private colleges and universities.[20] Unlike Obama's accommodation, which required objecting employers to notify their insurer or the government to ensure alternative coverage for employees, the Trump-era rules made this accommodation entirely optional.

The Rules faced immediate legal challenges. Democratic attorneys general from California and Pennsylvania filed lawsuits to block the new rules, arguing that the rules exceeded the administration's authority, harming access to contraceptive care. The first was filed by several states led by California, arguing that the IFRs violated the Administrative Procedure Act (APA) by failing to undergo proper notice-and-comment procedures and that the broad exemptions undermined women's access to contraceptive coverage.[21] Meanwhile, another coalition of states led by Pennsylvania filed *Commonwealth of Pennsylvania v. Trump*.[22]

In December 2017, a nationwide preliminary injunction preventing the IFRs from taking effect was issued by the District Court for the Northern District of California, while the Court of the Eastern District of Pennsylvania issued a nationwide injunction, citing similar APA violations and the threat to public health posed by reducing contraceptive access. Both cases were appealed; however, during these proceedings, the Trump administration finalized the Final Rules, cementing the broader religious and moral exemptions. These rules largely mirrored the IFRs, extending exemptions to nearly any employer with religious or moral objections to contraceptive coverage and maintaining the optional nature of the accommodation process.[23]

In the meantime, another legal challenge, *DeOtte v. Azar*, was filed. The plaintiffs included two distinct groups. The first group consisted of self-employed Christian individuals, arguing that subsidizing others' contraception through premiums burdened their religious exercise under RFRA and searching for class certification for all religious believers. The second group was the Christian-owned for-profit business, Health and Wellness Center, which contended that the mandate, forcing it to either directly provide contraceptive coverage or facilitate employee access through an accommodation, made it complicit in actions that violated its religious beliefs and sought class certification for all closely held for-profit corporations.[24]

While the *DeOtte* case went through several initial judicial reassignments,[25] the California and Pennsylvania cases ended in December 2018. In reviewing the California case, the Ninth Circuit Court of Appeals upheld the injunction, limiting its scope to the five plaintiff states (California, Delaware, Maryland, New York, and Virginia)[26]. Conversely, the Third Circuit, in *Pennsylvania v. President United*

[20] US Department of Health and Human Services, *Interim Final Rule Coverage of Certain Preventive Services Under the Affordable Care Act*, 82 Fed. Reg. 47792 (Oct. 13, 2017).
[21] *California v. Health and Human Services*, 281 F. Supp. 3d 806 (N.D. Cal. 2017).
[22] *Commonwealth of Pennsylvania v. Trump*, 281 F. Supp. 3d 553 (E.D. Pa. 2017).
[23] US Department of Health and Human Services, *Final Rule Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the Affordable Care Act*, 83 Fed. Reg. 57536 (Nov. 15, 2018).
[24] *DeOtte v. Azar*, 4:18-cv-00825, (N.D. Tex. 2018).
[25] *DeOtte v. Azar*, 4:18-cv-00825, (N.D. Tex. Oct 10, 2018) ECF No. 5.
[26] *California v. Azar*, 911 F.3d 558 (9th Cir. 2018).

States, upheld the nationwide scope injunction, ruling that the Trump administration lacked statutory authority to issue such expansive exemptions and that its reasoning under RFRA was insufficient to justify the IFRs.[27]

In this contradictory scenario, instead, the *DeOtte* saga continued, and in February 2019, the plaintiffs amended their complaint to replace the Health and Wellness Center with its management company, Braidwood Management. They also revised their class definitions: the first comprised individuals with religious objections to contraceptive coverage who would opt for insurance excluding such benefits if available, and the second included all current and future employers opposing, on religious grounds, the provision or facilitation of contraceptive services. Braidwood Management claimed immediate injunctive relief was necessary because it had already eliminated contraceptive coverage for its employees before the injunction against the Trump Administration's change. Without relief, the company faced daily tax penalties for each employee.[28] The court granted a temporary restraining order shielding Braidwood from penalties while the case was pending, and one month later, it certified the two proposed classes, ruling that the plaintiffs met the requirements for class certification under the Federal Rule of Civil Procedure.[29] In response, the state of Nevada sought to intervene in the case, arguing that the injunction would harm its citizens by reducing access to equitable reproductive care and increasing state healthcare costs.[30]

Meanwhile, the court issued a permanent injunction against the enforcement of the Contraceptive Mandate for the certified classes, stating that the mandate substantially burdened the plaintiffs' religious exercise. Applying the RFRA, the court determined that the government's interest in ensuring access to contraception, while compelling, could be achieved through less restrictive means, such as directly funding contraceptive services. Consequently, the court enjoined the mandate nationwide as it applied to the certified classes.[31] In response, organizations, universities, and 21 states immediately filed amicus briefs supporting Nevada.[32] One month later, the court denied Nevada's motion, ruling that the state lacked standing because its alleged harms were *too speculative* to constitute a concrete injury.[33] The court also found that Nevada's claims did not sufficiently overlap with those of the plaintiffs to justify permissive intervention and ruled in favor of the plaintiffs.[34] Thus, the State appealed to the Court of Appeals for the Fifth Circuit, and the *DeOtte* saga continued.

[27] *Pennsylvania v. President United States*, 930 F.3d 543 (3d Cir. 2019).
[28] *DeOtte v. Azar*, 4:18-cv-00825, (N.D. Tex. Feb 05, 2019) ECF No. 19.
[29] *DeOtte v. Azar*, 332 F.R.D. 188 (N.D. Tex. 2019).
[30] *DeOtte v. Azar*, 4:18-cv-00825, (N.D. Tex. May 24, 2019) ECF No. 62.
[31] *DeOtte v. Azar*, 393 F. Supp. 3d 490 (N.D. Tex. 2019).
[32] Massachusetts, California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Maine, Maryland, Michigan, Minnesota, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington. All the documents available at https://www.courtlistener.com/docket/7994706/deotte-v-azar/ (last accessed 04/02/2025).
[33] Emphasis added. *DeOtte v. Azar*, 332 F.R.D. 173 (N.D. Tex. 2019).
[34] *DeOtte v. Azar*, 393 F. Supp. 3d 490, 495 (N.D. Tex. 2019), judgment entered, No. 4:18-CV-00825-O, 2019 WL 3786545 (N.D. Tex. July 29, 2019).

2.2.2. The Title X Legal Challenges

At the federal level, in 2019, the Trump Administration imposed regulations prohibiting Title X-funded clinics from providing abortion referrals or co-locating with abortion services. The Title X Family Planning Program, established in 1970, has been a cornerstone of the US public health system, providing affordable family planning services to low-income and uninsured individuals. Through a nationwide network of clinics, the program historically ensured millions of individuals annually access to contraceptive care, cancer screenings, and sexually transmitted infections (STIs) testing.[35] Trump's restrictions led to a substantial exodus of providers from the Title X network, including Planned Parenthood affiliates and other clinics, which accounted for nearly 1300 sites leaving the program.[36] These rules were criticized for restricting access to comprehensive sexual healthcare and significantly disrupting the operations of Title X clinics. Consequently, the rules and Title X arrived in courts, but for opposite reasons.

Multiple lawsuits were filed across the country to block the implementation of these rules by states, healthcare organizations, and civil rights groups, claiming that the regulations violated constitutional and statutory laws, significantly harming access to essential reproductive healthcare. District courts in Washington, Oregon, California, and Maryland issued preliminary injunctions that temporarily blocked the regulations, citing potential harm to public health and violations of federal laws.[37] However, the HHS appealed these decisions, enabling the Title X regulations to remain in effect while litigation continued. The Ninth Circuit Court of Appeals granted a stay of the preliminary injunctions in the cases from Washington, Oregon, and California, allowing the regulations to take effect.[38] Legal proceedings intensified as plaintiffs sought en banc hearings to challenge the Ninth Circuit's panel decision. In July 2019, the Ninth Circuit granted a review, indicating that a larger panel of judges would reconsider the stay of the preliminary injunctions. Despite this, the en banc panel ruled 7-4 in February 2020 to uphold the Title X regulations, concluding that they were neither contrary to law nor arbitrary and capricious under the APA.[39]

In contrast, the Fourth Circuit Court of Appeals, also sitting en banc, upheld the Maryland district court's decision to strike down the Title X regulations. However, the Fourth Circuit chose not to apply its ruling nationwide, resulting in a fragmented legal landscape where the regulations remained enforceable in some jurisdictions but not in others.[40] In response to the Ninth Circuit's ruling, NFPRHA, alongside the AMA, Planned Parenthood, and other plaintiffs, sought Supreme Court review. The high-profile cases included *NFPRHA v. Azar*, *State of Oregon v. Azar*, and subsequently, 19 states and several nonprofits filed motions to intervene in the litigation. Practically speaking, Title X regulations imposed

[35] Title X of the Public Health Service Act, Project grants and contracts for family planning services (42 U.S.C. 300 et seq.).

[36] Department of Health and Human Services, *Final Rule Compliance with statutory program integrity requirements*, CFR 84(42), 7714, (March 4, 2019).

[37] *State of Washington v. Azar et al*, No. 1:2019cv03040 - Document 54 (E.D. Wash. 2019); *Oregon v. Azar*, 389 F. Supp. 3d 898 (D. Or. 2019); *California v. Azar*, 385 F. Supp. 3d 960 (N.D. Cal. 2019); *Mayor & City Council of Balt. v. Azar*, 392 F. Supp. 3d 602 (D. Md. 2019).

[38] *California v. Azar*, No. 19-15974 (9th Cir. Jun. 20, 2019).

[39] *California v. Azar*, 950 F.3d 1067 (9th Cir. 2020).

[40] *Mayor & City Council of Baltimore v. Azar*, No. 19-1614 (L) (4th Cir. Mar. 27, 2020).

significant operational and financial burdens, prompting many clinics to withdraw from the program. Planned Parenthood was one of the prominent litigants, formally exited Title X alongside nonprofits and states such as Illinois, Maine, Oregon, and Washington. These withdrawals affected all Title X clinics in states like Hawaii, Maine, Oregon, Utah, Vermont, and Washington, and most clinics in Alaska, Connecticut, Maryland, and New York.[41]

This legal trajectory was soon reinforced by parallel developments, such as the April 2020 case brought by a parent in the Amarillo Division of the Northern District of Texas, challenging Title X under the RFRA and the Texas Family Code. The case centered on parental consent rights regarding minors' access to contraception, invoking Section 151.001(a)(6), which affirms parents' authority over their child's medical decisions. As the *Deanda* litigation evolved through a series of motions and cross-motions, it signaled a shift in legal narrative, broadening from institutional religious exemptions to encompass parental rights and minor protection as a constitutional and statutory concern.[42]

Meanwhile, the Trump administration and the Little Sisters of the Poor, who intervened in the Third Circuit case over RFRA, appealed the ruling to the Supreme Court, which consolidated the cases[43] and in July 2020 issued a 7-2 decision in favor of the Trump administration in *Little Sisters of the Poor v. Pennsylvania*. Writing for the majority, Justice Clarence Thomas stated that the agencies had statutory authority under the ACA to establish the expanded exemptions and that their actions complied with APA requirements. The Court chose not to address the broader constitutional claims under RFRA but affirmed the validity of the exemptions. Justices Ginsburg and Sotomayor dissented, arguing that the expanded exemptions did not adequately consider the impact on women who would lose contraceptive coverage. This ruling effectively upheld the broader exemptions introduced by the Trump administration, permitting employers to deny contraceptive coverage based on religious or moral objections[44] – therefore legally permitting sex-based discrimination on the grounds of moral belief.[45]

In December 2021, the Court of Appeals for the Fifth Circuit finally dismissed the *DeOtte* case as moot, considering the Supreme Court's decision in *Little Sisters*. However, Nevada contended that the case was not moot, arguing that the Contraceptive Mandate could potentially be altered again by the executive branch or through future litigation. The Fifth Circuit determined that this possibility was too speculative to overcome the mootness doctrine.[46] Despite this, the court agreed to grant Nevada's request

[41] L. SOBEL, A. SALGANICOFF, *Litigation Challenging Title X Regulations*, in *KKF*, (November 21, 2019). https://www.kff.org/womens-health-policy/issue-brief/litigation-challenging-title-x-regulations/ (last accessed 04/02/2025).

[42] Complaint-Class Action, Case No. 2:20-cv-00092, (April 10, 2020).

[43] *Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania* and *Trump v. Pennsylvania*

[44] *Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania*, 591 US, 140 S. Ct. 2367 (2020).

[45] S. Rubis, *Little Sisters of the Poor v. Pennsylvania: The Not So Little Effect of Interfering with the ACA's Contraceptive Mandate*, in *University of Maryland Law Journal of Race, Religion, Gender and Class*, 21(2), 2021, 338-380; J. Houlette, *Taking Matters Into Their Own Hands: A Critique of the Supreme Court's Holding in Little Sisters of the Poor v. Pennsylvania*, in *Journal of Health Care Law and Policy Journal of Health Care Law and Policy*, 27 (2), 2024, 303-319.

[46] As outlined in Article III Section 2, Clause 1 of the Constitution, the mootness doctrine – known as the "cases or controversies clause" – restricts the scope of judicial review by federal courts, requiring courts to intervene only in active disputes dismiss a case if the case or controversy ends or a party no longer has a personal stake in the case.

to vacate the lower court's judgment as moot rather than simply dismissing the appeal. The court held that it had the jurisdiction to vacate the judgment because Nevada should have been permitted to intervene.[47]

The Contraceptive Mandate's battleground, however, was going to involve other preventive care, especially due to the fertile terrain brought by the Supreme Court in the abortion legal framework.

3. From Abortion to Contraception, from Contraception to PrEP

3.1. The Biden Era and the Post-Dobbs Landscape

Following the new political election, the Biden Administration initiated efforts to restore protections in reproductive health, notably by implementing revised Title X regulations in 2021 that reversed restrictive policies enacted during Trump.[48] Consequently, all parties involved in the litigations against the Trump Domestic Gag Rule filed a joint stipulation of voluntary dismissal. The Supreme Court granted this dismissal in May 2021, effectively ending the legal challenges. However, Justices Thomas, Alito, and Gorsuch dissented, indicating they would have allowed the cases to proceed.[49] Despite the Biden Administration's action to protect women's health, the fight against equality related to sexual and reproductive healthcare continued. In fact, against the new Biden Rule in October 2021, a coalition of twelve states – Ohio, Alabama, Arizona, Arkansas, Florida, Kansas, Kentucky, Missouri, Nebraska, Oklahoma, South Carolina, and West Virginia – initiated a legal challenge. The states argued that the rule was arbitrary and capricious under the standards outlined in the APA. After searching for a preliminary injunction denied by the court[50], the coalition appealed – except for Arizona, which voluntarily withdrew. Nevertheless, a more profound shift was imminent.

In June 2022, the Supreme Court dramatically shifted the reproductive landscape by overturning *Roe v. Wade*, which had safeguarded constitutional privacy protections for abortion for fifty years.[51] With *Dobbs v. Jackson*, the authority to regulate abortion was returned to individual states, raising significant concerns about related issues, including access to contraception.[52] Despite the majority opinion stating that Dobbs did not open doubts with precedents not related to abortion,[53] as contested in the dissenting opinion, however, there is no difference for someone between abortion and the use of morning-after pills – Plan B and Ella –, IUDs, or more generally, contraception.[54] Not surprisingly, in his concurring opinion, Justice Thomas underlined the possibility that, in future litigations, the Court could

[47] *DeOtte v. Azar*, 20 F.4th 1055 (5th Cir. 2021).

[48] The White House, *Memorandum on Protecting Women's Health at Home and Abroad* (January 28, 2021); Department of Health and Human Services, *Final Rule Ensuring Access to Equitable, Affordable, Client-Centered, Quality Family Planning Services*, CFR 86(192), 56144, (October 7, 2021).

[49] Order List: 593 US, Dismissal of 20-429 *American Medical Assn., et al. v. Becerra, Sec. of H&Hs, et al.;* 20-454 *Becerra, Sec. of H&Hs, et al. v. Mayor and City Council Baltimore*; 20-539 *Oregon, et al. v. Becerra, Sec. of H&Hs, et al.* (Monday 17, 2021).

[50] *State Of Ohio et al. v. Secretary, Department of Health and Human Services et al,* No. 1:2021cv00675 - Document 50 (S.D. Ohio 2021).

[51] *Roe v. Wade*, 410 US 113 (1973).

[52] *Dobbs v. Jackson Women's Health Organization*, 597 US (2022).

[53] "Nothing in this opinion should be understood to cast doubt on precedents that do not concern abortion", *Dobbs*, at 2280.

[54] *Dobbs*, Dissenting Opinion, at 2337.

also reconsider precedents that were decided following Roe's same principles and reasoning as *Griswold*.[55] As legal scholar Martha Minow has noted, the use of the term "potential life" in discussions surrounding abortion reflects "politicized fights and potential ignorance", considering that most anti-abortionists include in those terms also eggs and sperm, opposing both abortion and birth control on the same grounds. Most probably, the majority opinion wanted to "reassure" a nation where even many Christians do not oppose contraception, as evidenced by the fact that 99% of American women have used birth control at some point in their lives.[56]

The aftermath of the decision sparked legal chaos, leading to a divided nation with contrasting approaches, as states with protective policies clashed with those imposing restrictions, while the debate over contraception also intensified, prompting both federal and state governments to implement various measures to expand access, building on existing federal mandates. At the federal level, Congress in July 2022 signed an Executive Order to protect reproductive healthcare services access.[57] Additionally, the administration sought to codify the right to access all FDA-approved contraceptive methods, including pills, devices, emergency contraception, and sterilization, through the Right to Contraception Act – a legislative proposal designed to safeguard the right to obtain and use contraceptives[58] – and the Access to Safe Contraception Act – intended to prohibit states from banning the prescription, provision, or use of FDA-approved contraceptives.[59] The Democrat-controlled House passed the Right to Contraception Act, but it failed to advance in the Senate due to a filibuster. Meanwhile, the Biden administration issued a second Executive Order to enhance contraceptive access, expanding on the ACA's mandate and directing the HHS Secretary to improve access through federally supported programs like Title X clinics, with new guidance and training to ensure culturally and linguistically appropriate family planning services.[60]

At the state level, measures included requiring insurance coverage for FDA-approved contraceptives, expanding the scope of practice for clinicians and pharmacists, and implementing provider-specific requirements. Several states – California, Michigan, and Vermont – aimed to protect broader reproductive rights by amending their constitutions, seen as more stable protections than statutory laws considered too vulnerable to political changes.[61]

In the meantime, however, the *Deanda* case in Texas continued its road, and in December, the court granted the plaintiff's motion for summary judgment while denying the defendants' cross-motion. The court determined that the plaintiff had to stand and that the statute of limitations did not bar the

[55] *Dobbs*, Justice C. Thomas, Concurring opinion, at 2302-2303.

[56] M. MINOW, *The Unraveling: What Dobbs May Mean for Contraception, Liberty, and Constitutionalism*, in C. L. BOLLINGER, G. STONE (eds), *Roe v. Dobbs: The Past, Present, and Future of a Constitutional Right to Abortion*, New York, 2024, 318–338, cit. 328.

[57] Presidential Executive Order, *Protecting Access to Reproductive Healthcare Services*, No. 14076, 87 Fed. Reg. 42053 (July 8, 2022).

[58] HR 8373 - *Right to Contraception Act*, 117th Congress (July 14, 2022).

[59] HR 8421- *Access to Safe Contraception Act***,** 117th Congress (July 19, 2022).

[60] Presidential Executive Order *Securing Access to Reproductive and Other Healthcare Services*, No. 14079, 87 Fed. Reg. 49505 (August 03, 2022).

[61] California Proposition 1 Constitutional Right to Reproductive Freedom. Legislative Constitutional Amendment (2022); Michigan Proposition 3 Section 28 Right to Reproductive Freedom Initiative [Reproductive Freedom for All] (2022), and Vermont Proposal 5 Right to Personal Reproductive Autonomy Amendment (2022).

claims. Evaluating the merits, the court ruled that the Title X program conflicted with Texas state law and that, in the absence of express conflict or field preemption within Title X, Texas law prevailed. Additionally, the court held that the program violated the Fourteenth Amendment by infringing on parents' constitutional right to direct their children's upbringing.[62] Notably, the ruling did not address the RFRA argument. The final judgment also partially vacated a federal regulation, introduced after the lawsuit was initiated, which prohibited Title X grantees from notifying parents or obtaining parental consent.[63] Then, the Dobbs dissenting opinion's argument – that abortion bans often lead to contraception restrictions – was demonstrated by Texas, notably the most stringent anti-abortion state. The case perfectly highlighted the complexities and conflicts in the legal landscape, showing how issues surrounding abortion and contraceptive access are inextricably linked.

While the *Deanda* defendant appealed, the "pro-life states case" led by Ohio concluded. Reviewing the *Ohio* case, the Sixth Circuit Court issued a ruling striking down certain aspects of the Biden Administration's regulations related to Title X funding. The decision reinstated part of the Trump-era rules, requiring clinics receiving Title X funds to maintain "strict physical and financial separation" between birth control and STI care and abortion. The requirements stipulated that services funded by different sources must be delivered in separate facilities, by distinct personnel, and using independent billing systems.[64]

On the anniversary of Roe's overturning, the administration signed an Executive Order again focusing on contraception and family planning, providing additional funding and expanding telehealth infrastructure under Title X[65], and trying to reintroduce the Contraceptive Act in the Congressional Session.[66] Similarly, at the state level, the fight to ensure or improve contraception continued. Some states prioritized increasing the duration for which insurers cover prescription contraceptives, and among them, notably Idaho and Tennessee, both states with strict abortion bans that, however, enacted legislation extending birth control supply requirements, respectively, for six and 12-month supplies.[67] Delaware serves as another example of legislative efforts to improve access to contraception. The state enacted legislation that expanded contraceptive coverage under health insurance to include all over-the-counter contraceptives without a prescription.[68] The federal interest in defining a right to contraception and the state interventions in improving access to birth control – even in some restrictive states – was a consequence of the abortion and contraception conflation after *Dobbs* in restrictive states.[69] Examining the impact of the Supreme Court's decision, two opposite consequences came to the surface: on one hand the percentage of young adults that have optioned permanent forms of contraception profoundly increased – 70% among women for sterilization and 95% among men for

[62] *Deanda v. Becerra et al*, No. 2:2020cv00092 - Document 63 (N.D. Tex. 2022).
[63] *Deanda v. Becerra*, 2022 WL 17843038 (N.D. Tex. Dec. 20, 2022).
[64] *Ohio v. Becerra*, 87 F.4th 759 (6th Cir. 2023).
[65] Presidential Executive Order *Strengthening Access to Affordable, High-Quality Contraception and Family Planning Services*, No. 14101, 88 Fed. Reg. 41815 (June 23, 2024).
[66] HR 4121 - *Right to Contraception Act*, 118th Congress (June 16, 2023).
[67] Idaho SB1234; Tennessee SB1919.
[68] Delaware S 232.
[69] To a broader view, *see* M. FELIX, L. SOBEL, A. SALGANICOFF, *The Right to Contraception: State and Federal Actions, Misinformation, and the Courts*, in *KKF*, (May 2024). https://www.kff.org/womens-health-policy/issue-brief/the-right-to-contraception-state-and-federal-actions-misinformation-and-the-courts/ (last accessed 04/02/2025).

vasectomy[70]– on the other hand, the use of oral and emergency contraceptives (ECs) significant declined remarkably in states that implemented the most restrictive abortion policies combined with the closure of family planning clinics due to the confusion between the line of what is considered as an abortion.[71]

Finally, after more than two years, the *Deanda* case concluded. The Fifth Circuit Court affirmed portions of the district court's judgment while reversing others. Specifically, the Court upheld the district court's conclusion that the Secretary's administration of Title X violated Section 151.001(a)(6) of the Texas Family Code. It further agreed that 42 U.S.C. § 300(a) does not preempt state laws requiring parental consent or notification before providing minors with contraceptive drugs or devices. Following the decision, Title X providers in Texas, such as those in the "Every Body Texas" network, have had to enforce parental consent requirements, preventing minors from accessing confidential contraceptive care.[72]

At the federal level, the Contraception Act was blocked again by the Senate GOP[73], and a second wave of reproductive health protections emerged as federal elections approached in November 2024. Maryland, Hawaii, Washington, Missouri, New York, and Arizona emphasized the state's commitment to reproductive health protections.[74]

Following the first Trump Era and the post-Dobbs landscape, however, another objection came out from the shadows, further highlighting how much sexual and reproductive health represents both an ideological issue and an economic fight.

3.2. From the Contraceptive to the PrEP Mandate: Two Sides of a Coin

3.2.1. The PrEP Revolution in the Shadows of the Reproductive Fight

As demonstrated, the introduction of the Contraceptive Mandate within the ACA marked the beginning of a decade-long legal and political struggle over sexual and reproductive rights, igniting extensive litigation centered on the balance between healthcare access, religious liberty, free speech, parental rights, and federal-state authority. The same year of the ACA enactment, however, another transformative development in sexual health prevention emerged: the advent of pre-exposure prophylaxis (PrEP) as a groundbreaking biomedical strategy for reducing HIV transmission. This scientific breakthrough signaled a paradigm shift in HIV prevention, yet several barriers – most notably, the persistent stigma surrounding HIV and the prohibitively high cost of the medication – initially hindered its widespread adoption.

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[70] J. Strasser, E. Schenk, S. Luckenbill, D. Tsevat, L. King, Q. Luo, J. Maslowsky, *Tubal Sterilization and Vasectomy Increased Among US Young Adults After the Dobbs Supreme Court Decision in 2022*, in *Health Affairs*, 44, 1, 2025, 99-107.

[71] D. M. Qato, R. Myerson, A. Shooshtari, J. S. Guadamuz, G. C. Alexander, *Use of Oral and Emergency Contraceptives After the US Supreme Court's Dobbs Decision*, in *JAMA Netw Open*, 7, 6, 2024.

[72] *Deanda v. Becerra*, No. 23-10159 (5th Cir. 2024).

[73] S 4381 – *Right to Contraception Act*, 118th Congress (May 22, 2024).

[74] Maryland SB798 (2023); Hawaii's SB3252 (2024); Washington's SJR8202 (2023-24); Missouri Amendment 3, Right to Reproductive Freedom Initiative (2024); New York's Proposal 1, Equal Rights Amendment (2024); Arizona Proposition 139 Right to Abortion Initiative (2024) and Executive Order 2024-03 *Protecting Reproductive Freedom through Increased Access to Contraception*.

Building on the findings of iPrEx[75] and subsequent research on serodiscordant couples,[76] the FDA approved Truvada in 2012, a medication developed by the US-based Gilead Sciences, specifically for HIV prevention. Before this regulatory milestone, Truvada had been available only as part of combination therapies for individuals already living with HIV.[77] However, despite its clinical efficacy, the uptake of PrEP remained significantly lower than public health experts had anticipated, prompting the CDC to issue a formal recommendation in 2017 that PrEP had to be covered as a preventive service under the ACA, ensuring it would be available without cost-sharing.[78] Recognizing that adolescent populations faced unique barriers to accessing prevention, the FDA later expanded Truvada's approval to include adolescents at risk of HIV exposure,[79] while the launch of Descovy – a second-generation PrEP formulation – further diversified biomedical prevention options for adults and teenagers.[80] This policy decision aligned with broader federal initiatives led by HHS, including the ambitious goal of ending the HIV epidemic by 2030.[81]

Nevertheless, PrEP soon became entangled in moral, ideological, and legal debates. In 2019, controversy erupted when a physician refused to prescribe PrEP to a bisexual male patient on religious grounds, arguing that doing so would conflict with his personal beliefs.[82] This case foreshadowed an escalating legal battle over whether PrEP's inclusion in the ACA's preventive services mandate could be contested under claims of RFRA. Just as access to contraception had been challenged on the grounds of religious objections, PrEP was increasingly framed within broader legal disputes over the intersection of public health mandates, individual rights, and the scope of religious exemptions in healthcare policy.

Beyond speculation, the tangible connection between the Contraceptive Mandate and the PrEP Mandate can also be seen through the development, outcomes, and promising approval of the Dual

[75] R. M. GRANT, J. R. LAMA, P. L. ANDERSON, ET AL., *Pre-Exposure Prophylaxis for HIV Prevention in Men Who Have Sex with Men*, in *The New England Journal of Medicine*, 363, 2010.

[76] A. MUJUGIRA, J.M. BAETEN, D. DONNELL, ET AL., *Characteristics of HIV-1 serodiscordant couples enrolled in a clinical trial of antiretroviral pre-exposure prophylaxis for HIV-1 prevention: The Partners PrEP Study*, in *PLoS ONE*, 6, 10, 2011; J. M. BAETEN, D. DONNELL, P. NDASE, ET AL., *Antiretroviral prophylaxis for HIV prevention in heterosexual men and women*, in *The New England journal of medicine*, *367*, 5, 2012, 399–410.

[77] Food and Drug Administration (FDA), Center for Drug Evaluation and Research (CDER), Department of Health and Human Services (HHS), *Approval Package for Use of Truvada in combination with safer sex practices for pre-exposure prophylaxis (PrEP) to reduce the risk of sexually acquired HIV-1 in adults at high risk*, NDA 021752Orig1s030, https://www.accessdata.fda.gov/drugsatfda_docs/nda/2012/021752_truvada_toc.cfm (last accessed 04/02/2025).

[78] US. Pub. Health Serv., *Preexposure Prophylaxis for the Prevention of HIV Infection in the United States* – 2017 Update 11 (2017), https://stacks.cdc.gov/view/cdc/53508 (last accessed 04/02/2025).

[79] Food and Drug Administration (FDA), *HIV-1 PrEP drug can be part of a strategy to prevent infection in at-risk adolescents*, AAP News, 1, 2018, 1–2. https://www.fda.gov/files/science%20&%20research/published/HIV-PrEP-drug-can-be-part-of-strategy-to-prevent-infection-in-at-risk-adolescents.pdf (last accessed 04/02/2025).

[80] Food and Drug Administration (FDA), Center for Drug Evaluation and Research (CDER), Department of Health and Human Services (HHS), *Approval Package for Use of Descovy*, NDA 208215Orig1s012, Available at https://www.accessdata.fda.gov/drugsatfda_docs/nda/2019/208215Orig1s012.pdf (last accessed 04/02/2025).

[81] HHS *Ending the HIV Epidemic in the U.S.*(EHE), 2019. Available at: https://www.hiv.gov/federal-response/ending-the-hiv-epidemic/overview. (last accessed 04/02/2025).

[82] A. BRUMMETT, *When conscientious objection runs amok: A physician refusing HIV preventative to a bisexual patient*, in *Clinical Ethics*, 16, 2, 2021, 151-154.

Prevention Pill (DPP). This pill, which combines oral PrEP and oral contraceptives, offers a comprehensive solution for HIV prevention and pregnancy control, addressing reproductive and sexual health simultaneously. Established in 2019, the DPP Consortium unites organizations such as AVAC, the Clinton Health Access Initiative (CHAI), Viatris, the Population Council, and Medicines360 to advance the development and introduction of a dual-purpose pill for preventing HIV and pregnancy. Funded by supporters including the Children's Investment Fund Foundation (CIFF), the Gates Foundation, USAID, and the HIV Prevention Trials Network (HPTN), the initiative emphasizes both product development and research.[83] The Population Council, in partnership with the University of Zimbabwe, conducted crossover acceptability studies to evaluate user preferences and adherence to the DPP compared to separate regimens of PrEP and oral contraceptives. Kenya, South Africa, and Zimbabwe are anticipated to be among the first countries to embrace the DPP, serving as key sites for generating evidence.[84] Nevertheless, the tension around PrEP laid the groundwork for litigation that would not only determine the fate of PrEP coverage – and the future of DDP – but that perfectly reflects deeper ideological conflicts over sexual health preventive medicine.

2.2.2. The PrEP Mandate Litigations

In 2022, a coalition of six individuals and two Christian-owned businesses filed suit in the US District Court for the Northern District of Texas, challenging the ACA's preventive services mandate under several constitutional and statutory grounds. The plaintiffs – which, among others, again figured the Kelley couple and Braidwood who were also in the *DeOtte* case – argued that requiring insurers to cover PrEP violated their religious beliefs because the medication allegedly encouraged behaviors such as "homosexual conduct, intravenous drug use, and sexual activity outside of marriage between one man and one woman".[85] The plaintiffs' claims were multifaceted. First, they alleged that the members of the US Preventive Services Task Force (USPSTF) – which recommends preventive services – were appointed in violation of the Constitution's Appointments Clause. Secondly, they argued that Congress impermissibly delegated authority to the USPSTF without sufficient guidance, violating the Constitution's Vesting Clause and non-delegation doctrine. Lastly, they claimed that the mandate violated RFRA by burdening their religious exercise. The US District Court for the Northern District of Texas delivered a nuanced ruling, addressing both constitutional and statutory claims brought by the plaintiffs. The court rejected the argument that the ACA's preventive services mandate was limited to recommendations in effect at the time of its passage in 2010, affirming that the mandate extended to all subsequent recommendations made by the USPSTF, the Centers for Disease Control and Prevention's Advisory

[83] "Dual Prevention Pill Project", https://avac.org/project/dual-prevention-pill-project/; "Dual Prevention Pill for the Prevention of HIV and Unintended Pregnancy", available at https://popcouncil.org/project/dual-prevention-pill-for-the-prevention-of-hiv-and-unintended-pregnancy/ (last accessed 04/02/2025).

[84] B. A. FRIEDLAND, N. M. MGODI, T. PALANEE-PHILLIPS, ET AL, *Assessing the acceptability of, adherence to and preference for a dual prevention pill (DPP) for HIV and pregnancy prevention compared to oral pre-exposure prophylaxis (PrEP) and oral contraception taken separately: protocols for two randomised, controlled, cross-over studies in South Africa and Zimbabwe*, in *BMJ Open*, 14**,** 2024; S. TENZA, L. MAMPURU, M. MOJI ET AL., *Killing two birds with one stone – a qualitative study on women's perspectives on the dual prevention pill in Johannesburg, South Africa*, in *BMC Women's Health*, 24, 2024.

[85] *Braidwood Mgmt. Inc. v. Becerra*, no. 4:20-cv-00283-o, 2022 WL 4091215, at 20 (N.D. Tex. Sept. 7, 2022).

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Committee on Immunization Practices (ACIP), and the Health Resources and Services Administration (HRSA). This decision upheld the broad applicability of the mandate to evolving preventive health measures. The court dismissed the plaintiffs' claims that the appointments of ACIP and HRSA members violated the Constitution's Appointments Clause, finding no constitutional defects in their selection processes. However, the court ruled in favor of the plaintiffs regarding the USPSTF, concluding that its members exercised significant authority under federal law while not being appointed by the President or confirmed by the Senate, thereby violating the Appointments Clause. In addition, applying the framework established in *Hobby Lobby*, the court determined that the PrEP Mandate violated the RFRA as applied to the plaintiffs. Specifically, the court found that requiring the plaintiffs, who held "sincere religious objections" to PrEP coverage, to include the medication in their insurance plans imposed a substantial burden on their exercise of religion without sufficient justification. The court, however, did not immediately provide remedies for the violations it identified under the Appointments Clause and RFRA. Instead, it ordered supplemental briefings to determine the appropriate relief for the plaintiffs, signaling that the final resolution of these issues would follow further proceedings.[86]

In March 2023, the final ruling was issued, striking down the ACA's requirement for insurers to cover preventive services recommended by the USPSTF because members were not appointed in a manner consistent with the Appointments Clause of the Constitution. The court argued that this structural defect invalidated the legal basis for implementing the preventive services mandate for post-2010 USPSTF recommendations. This included PrEP and other critical services like screenings for lung cancer, preeclampsia, and certain tests for STIs.[87]

Recognizing the far-reaching implications of this decision, the federal government appealed. In response to the appeal, the Fifth Circuit Court granted a temporary stay of the district court's ruling, which allowed insurers to continue covering USPSTF-recommended preventive services, including PrEP, without cost-sharing while the appellate process unfolded. In June 2024, the Court issued its decision, affirming in part, reversing in part, and remanding the lower court's ruling. The Fifth Circuit addressed both constitutional and statutory challenges to the ACA's preventive services mandate, focusing on the issues surrounding the USPSTF and the application of the RFRA. It upheld the district court's determination that the appointments of USPSTF members violated the Appointments Clause, agreeing that USPSTF members, who wield substantial authority by determining which preventive services insurers must cover, were not properly appointed under Article II. The Court also emphasized that USPSTF members must either be appointed by the President with Senate confirmation or operate under sufficient supervision by a constitutionally appointed official, affirming the district court's invalidation of mandates for USPSTF recommendations made after March 2010, including the requirement to cover PrEP without cost-sharing. On the RFRA claim, the Fifth Circuit agreed that the mandate substantially burdened the plaintiffs' religious exercise without satisfying RFRA's strict scrutiny standard, noting that while ensuring access to PrEP was a compelling government interest, the government had failed to demonstrate that the mandate was the least restrictive means of achieving that goal. However, the Fifth Circuit reversed the district court's broader invalidation of the preventive services mandate as applied nationwide. Instead, it limited relief to the plaintiffs, emphasizing that courts should

[86] *Braidwood Mgmt., Inc. v. Becerra*, F. Supp. 3d, 2022 WL 4091215 (N.D. Tex. Sept. 7, 2022).
[87] *Braidwood mgmt. inc. v. Becerra*, no. 4:20-cv-00283-o, 2023 WL 2703229 (N.D. Tex. Mar. 30, 2023).

grant remedies tailored to the specific parties before them. The case was remanded to the district court for further proceedings to clarify and implement the appropriate remedies consistent with the Fifth Circuit's opinion.[88] Then, the Biden Administration appealed.

4. The New Trump Era: Replacing Public Health with Public Opinion

4.1. Pro-Life or Profit-Driven? Contraception, HIV Prevention, and the Economy of Moral Control

Among the executive orders signed by President Trump on the first day of his second administration, one of them reaffirmed a longstanding federal commitment to preventing taxpayer dollars from funding elective abortions domestically and internationally. The decision reversed Biden-era practices such as reimbursing abortion-related travel expenses for military personnel and financing abortions for undocumented immigrants through the HHS. These actions are rooted in the Hyde Amendment, which has, for nearly 50 years, reflected a bipartisan consensus to shield taxpayers from financially supporting abortion. The executive orders underscore the administration's broader pro-life agenda, reversing previous administration policies and instituting measures to safeguard taxpayer funds, respect states' rights, and promote the "sanctity of human life". The executive order signed on January 24, 2025, enforces the principles of the Hyde Amendment by reversing the two significant executive orders on birth control issued by President Biden. Another key measure of this Executive Order was the reinstatement of the Mexico City Policy – announced with a Presidential Memorandum revoking the Biden Memorandum on Women's Health[89] – re-barring US federal funds from being used by foreign organizations that perform or promote abortion. President Trump's executive actions include implementing Title X regulation to prevent taxpayer funding from subsidizing abortion providers; cutting funding to the United Nations Population Fund (UNFPA), citing its involvement in coercive abortion practices; fully enforcing the ACA's requirement for separate payment of abortion coverage in marketplace insurance plans; ending federal funding for fetal tissue research, addressing ethical concerns surrounding the use of aborted fetal tissue in scientific studies; and strengthening conscience protections for healthcare providers, ensuring individuals and institutions are not compelled to participate in abortion procedures. Nevertheless, this Executive Order represented more than "domestic policy". At the global level, it expands the Mexico City Policy to include global health assistance programs, ensuring that foreign aid aligns with US pro-life values and leading an international coalition to sign the Geneva Consensus Declaration, affirming the principle that abortion is not an international right and committing to the protection of women's health globally.[90] By aligning domestic and international policy, the Trump Administration's pro-life commitment is further demonstrated in being the first sitting president to attend the March for Life, providing unprecedented executive support for the movement. Even if these actions are related to abortion, as seen before, however, at the public opinion level, abortion does not mean strictly abortion when it comes to facing the debates on the functioning of specific contraceptive

[88] *Braidwood Mgmt. v. Becerra*, No. 23-10326 (5th Cir. Jun. 21, 2024).

[89] Presidential Memorandum for the Secretary of State, the Secretary of Health and Human Services, and the Administrator of the United States Agency for International Development *The Mexico City Policy* (January 24, 2025)

[90] Presidential Executive Order, *Enforcing Hyde Amendment*, No. 14182, 90 Fed. Reg. 8751 (January 24, 2025).

ISSN 2284-4503

devices such as IUDs and the Morning After Pill. Additionally, also looking at the judicial level, Justice Thomas's concurring opinion left open the window to reconsider the legal right to contraception on the same ground as the Dobbs majority opinion considered the legal right to abortion.

The day President Trump took office, however, another executive order with global consequences was signed. The order regarded the freezing of nearly all new foreign aid funding for 90 days, triggering immediate disruptions to global HIV/AIDS programs. What was initially framed as a temporary review soon escalated into a broader bureaucratic paralysis, exacerbated by State Department directives that extended the funding freeze and left key initiatives, including the President's Emergency Plan for AIDS Relief (PEPFAR), in jeopardy.[91] PEPFAR, a cornerstone of US global health policy, has played a crucial role in providing lifesaving HIV treatment and prevention services to millions in low-income countries. While some treatment programs may eventually resume, prevention efforts – such as access to PrEP and other anti-retroviral therapies – have been severely curtailed. Clinics that rely on US funding to offer essential HIV services are now struggling to function, raising concerns that years of progress in combating the epidemic could be reversed. Compounding these challenges, the Trump administration has advanced plans to drastically reduce the USAID workforce, reportedly aiming to cut its staff from over 10,000 employees to just 290.[92] This move has sparked legal action, with Public Citizen and the Democracy Forward Foundation filing a lawsuit on behalf of USAID employees. The lawsuit accuses the administration of enacting unconstitutional and illegal policies that have had life-threatening consequences, particularly for those dependent on sustained HIV/AIDS intervention programs.[93] More broadly, in *National Urban League v. Trump*, several advocacy groups – including the National Urban League, the National Fair Housing Alliance, and the AIDS Foundation of Chicago – challenged three executive orders issued in January 2025 that terminated equity-related grants, prohibited federally funded entities from implementing DEIA initiatives, and denied recognition of transgender identities and care. Filed in the District of Columbia, the lawsuit argues that these orders violate the First and Fifth Amendments and the Administrative Procedure Act, amounting to intentional discrimination and censorship.[94] Similarly, multiple LGBTQ, health, and HIV organizations filed a separate challenge in the Northern District of California, asserting that the same executive orders unlawfully target marginalized communities and undermine critical public health and civil rights protections.[95]

As funding cuts, workforce reductions, and stalled programs continue to take effect, experts warn that the long-term consequences could be catastrophic for global HIV prevention and treatment efforts. The "HIV debate" and the more general sexual health debate, however, were also nationally renewed. Just days before President-elect Trump assumed office, in fact, the Supreme Court agreed to hear the Biden administration's appeal of *Braidwood Management v. Becerra* preventive services mandate. While the plaintiffs in the case aimed to challenge the entirety of the preventive care provisions, the

[91] Presidential Executive Order, *Reevaluating and Realigning United States Foreign Aid*, No. 14169, 90 Fed. Reg. 8619 (January 20, 2025).

[92] *Trump Administration to Lay Off nearly all of U.S. Aid Agency's Staff*, in *New York Times* (February 2, 2025).

[93] *American Foreign Service Association and American Federation of Government Employees v. Trump et al.*, Complaint for Declaratory and Injunction Relief, 1:25-cv-00352, (US D.D.C.), February 6, 2025.

[94] *National Urban League v. Trump*, Complaint for Declaratory and Injunction Relief, 1:25-cv-00471, (US D. D. C.), February 19, 2025.

[95] *San Francisco AIDS Foundation v. Trump*, 4:25-cv-01824, (N.D. Cal.), February 20, 2025.

Supreme Court's review will focus on a narrower issue: whether the USPSTF possesses the constitutional authority to issue binding recommendations on which services must be covered by insurers at no cost to patients. At this stage, the Supreme Court's review is confined to the authority of the USPSTF and does not extend to recommendations made by the HRSA or the ACIP. Nevertheless, challenges concerning these agencies are still being considered in lower courts. The Court heard oral arguments in April, and the decision is expected for the end of June. If the Supreme Court rules in favor of *Braidwood*, private health insurers may no longer be obligated to provide coverage without cost-sharing for certain preventive services recommended by the USPSTF.[96]

The decision could significantly impact coverage for services introduced post-ACA, such as lung cancer screenings, STIs testing, and PrEP for HIV prevention, which could become subject to deductibles, co-pays, or other out-of-pocket expenses. And in this scenario, it also remains unclear the fate of birth control.[97]

4.2. From "restoring" bans to the Websites and social media Shadowbans

On the evening of President Donald Trump's inauguration, the government website ReproductiveRights.gov, a key resource launched in 2022 by the HHS, was taken offline. This site served as an essential platform for disseminating information about abortion and reproductive healthcare access. It featured resources such as a patient fact sheet titled "Know Your Rights", which outlined legal protections for individuals seeking reproductive health services.[98] The same regard Aid Access – a non-profit organization that provides medication abortion across all 50 states – which has faced digital suppression, with their posts removed from Facebook, blurred on Instagram, and their account temporarily locked. This pattern reflected broader censorship faced especially by medication abortion providers, including the telehealth clinic Hey Jane, whose posts were made harder to find on Instagram, as well as organizations like Women Help Women and Just the Pill, both of which experienced account suspensions before being reinstated.[99] The sudden removal of these sites, profiles, and posts represented an attack on access to reproductive healthcare information, raising concerns about transparency. Nevertheless, the shadowban was going to involve more than abortion-related content.

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[96] *Kennedy v. Braidwood Management, Inc.* (Docket No. 24-316). All the documents related to the case are available at. https://www.scotusblog.com/cases/case-files/becerra-v-braidwood-management-inc/ (last accessed 05/02/2025).

[97] L. SOBEL, *ACA Preventive Services at the Supreme Court*, *KKF*, 2025, https://www.kff.org/quick-take/aca-preventive-services-at-the-supreme-court/; S. RINKUNAS, *The Supreme Court Could Gut Access to Birth Control This Year*, *Democracy Docket* (January 2025), https://www.democracydocket.com/opinion/the-supreme-court-could-gut-access-to-birth-control-this-year/; A. J. TWINAMATSIKO, K. KEITH, *Supreme Court Preview: Kennedy v. Braidwood Management and the Fate of Preventive Services Under the ACA*, in *O'Neill Institute George Town Law* (April 2025), https://oneill.law.georgetown.edu/scotus-preview-braidwood-and-the-fate-of-preventive-services-under-the-aca/ (last accessed 05/02/2025).

[98] *Government website on reproductive health goes dark after Donald Trump inauguration*, in *The Economic Times*, (January 22, 2025). https://economictimes.indiatimes.com/news/international/global-trends/government-website-on-reproductive-health-goes-dark-after-donald-trump-inauguration/articleshow/117436287.cms (last accessed 05/02/2025).

[99] GLENZA J., *Meta accused of 'bowing' to Trump by making abortion content harder to find*, in *The Guardian*, 2025. https://www.theguardian.com/us-news/2025/feb/03/meta-abortion-content (last accessed 06/02/2025).

In the wake of executive orders, the CDC has quietly removed or obscured numerous datasets and informational pages related to HIV, LGBTQ+ health, and other preventive health measures, marking a significant digital erasure of vital public health resources. Among the resources that have disappeared together with reproductive rights contents are also foundational HIV-related pages, including national surveillance reports, testing information, and key datasets that have historically guided both governmental and non-governmental health interventions. References to LGBTQ+ identities and HIV-related resources vanished from WhiteHouse.gov and several other federal agency websites, including those of the Centers for Disease Control and Prevention, the Department of State, and the Department of Labor. According to a report by GLAAD, mentions of terms such as "lesbian," "gay," "bisexual," "transgender," "sexual orientation," and "gender identity" were scrubbed from these platforms. The search term "LGBTQ" yielded no results on WhiteHouse.gov, and LGBTQ-specific pages were removed from multiple federal websites. This digital erasure significantly reduced the visibility of resources designed to address the specific health and equity needs of LGBTQ+ individuals and communities affected by HIV.[100]

The "National Youth Risk Behavior Survey (YRBS)", which has long provided critical insights into adolescent health by tracking factors such as nutrition, mental health, physical activity, and sexual behavior among high school students, has seemingly disappeared from its landing pages. Similarly, key resources dedicated to LGBTQ+ youth, including the "Supporting LGBTQ+ Youth" page and a comprehensive dataset on "Health Disparities Among LGBTQ Youth", are no longer accessible, with only archived versions remaining available through the Wayback Machine.[101] Additionally, essential public health resources such as the "Safer Food Choices for Pregnant People" page, which provides dietary guidance to reduce risks during pregnancy, have also been taken down. Beyond individual webpages, broader data tools have been eliminated, including "AtlasPlus", an interactive platform used to analyze trends in HIV, STDs, TB, and viral hepatitis, as well as the "Social Vulnerability Index", which played a key role in identifying communities at heightened risk during public health emergencies and disasters.[102]

The removal of resources targeting reproductive rights and LGBTQ+ and HIV-related information reveals the coordinated effort to undermine sexual and reproductive health, marginalizing vulnerable populations. Both actions undermine access to essential public health services and signal a federal retreat from commitments to equity and inclusion. For individuals seeking reproductive healthcare or support for LGBTQ+ and HIV-related issues, the lack of accessible information exacerbates barriers to care, disproportionately affecting underserved communities. The removal of these resources also

[100] *Breaking: Trump Administration Removes Lgbtq and Hiv Resources from White House and Other Government Websites*, in *Glaad*, (January 21, 2025). https://glaad.org/releases/breaking-trump-administration-removes-lgbtq-and-hiv-resources-from-white-house-and-other-government-websites/; WIGGINS C., *Trump administration erases mentions of LGBTQ+ & HIV resources from government websites*, in *Advocate Magazine*, 2025. https://www.advocate.com/politics/trump-strips-hiv-lgbtq-websites (last accessed 06/02/2025).

[101] K. EPSTEIN, *US federal websites scrub vaccine data and LGBT references*, in *BBC*, 2025. https://www.bbc.com/news/articles/cgkj8gx1vy6o (last accessed 07/02/2025).

[102] J. CHRISTENSEN, N. VALENCIA, J. HOWARD, D. MCPHILIPPS, B. GOODMAN, *CDC Websites, datasets taken down as agencies complies with Trump Executive Orders*, in *ABC News*, 2025. https://abc7news.com/post/cdc-website-down-datasets-pages-hiv-lgbtq-more-taken-agency-complies-donald-trump-executive-orders/15853560/ (last accessed 07/02/2025).

reflects a broader ideological stance aimed at suppressing public awareness and curtailing rights associated with gender and sexual orientation, sexual health, and reproductive autonomy. In an era where digital platforms serve as primary sources of medical information, the quiet removal of key health data represents not just a bureaucratic maneuver but an ideological battle over who controls knowledge and whose health is prioritized in national policymaking.

5. Conclusion

As reconstructed, from the moment the ACA introduced the Contraceptive Mandate, legal challenges – initially framed around religious freedom – quickly became strategic efforts by conservative administrations, religious organizations, and allied advocacy groups to narrow bodily autonomy under the guise of constitutional and administrative claims. The *Hobby Lobby* and *Zubik* cases, along with persistent litigation by conservative actors, marked the beginning of a jurisprudential shift that continued with the dismantling of Title X protections, showing how contraception is not treated as essential care, but as a cultural battleground. These same dynamics have extended to PrEP, with *Braidwood v. Becerra* building on earlier religious objections to contest preventive HIV care. Thus, what began as an isolated challenge has evolved into a systematic, well-resourced campaign that uses litigation, executive action, and judicial interpretation as coordinated tools to roll back federal protections for sexual health – particularly those grounded in anti-discrimination, equality, and public health rationales. These efforts aim not only to secure exemptions but to redefine the very scope of what constitutes "legitimate" healthcare.

Now, with the return of the Trump administration, these tactics are accelerating, demonstrating how executive power could be used to institutionalize ideological positions as public health policy. A new wave of executive orders explicitly targeting HIV funding, DEI programs, gender identity, and even the basic recognition of transgender people and gender affirmative care reaffirms that sexual and reproductive health remain a central terrain of ideological governance. In this scenario, digital platforms have simultaneously become arenas for this battle, where suppression and algorithmic erasure of sexual health information act as parallel forms of censorship, reshaping public discourse around it through technological infrastructures that govern visibility and access.

The pending Supreme Court decision on the PrEP Mandate will serve as a critical indicator of whether the judiciary will continue to legitimize this shift. Additionally, even if contraception was not directly addressed in the Dobbs decision, as seen, the concurring opinion has already cast doubt on the durability of *Griswold*. This suggests that both legal precedent and statutory protections are increasingly fragile in the face of coordinated "lawfare".

Ultimately, the current legal moment transcends a mere backlash – it represents a strategic, long-term effort to reshape public health policy through intertwined legal, executive, cultural, and technological mechanisms. The stakes have moved beyond insurance coverage to the fundamental question of whether public health can withstand a legal system increasingly wielded as a tool of suppression. The coming years will determine whether rights to reproductive and sexual autonomy can be preserved – or whether they will continue to erode under mounting ideological and institutional pressure, with consequences that reverberate far beyond the US context.