

## Goodbye *Roe*. Hello forced vaccination?!

The recent court opinion *Dobbs vs Jackson Women's Health*<sup>2</sup> should terrify all who espouse liberty. Though the opinion rails against legal arguments offered in *Roe v Wade* (1973) and *Casey v Planned Parenthood* (1992), if we dig a bit, we see much more.

The broader theme of the *Dobbs*' opinion explains why and how that within the American system of government, the general *police power*, is reserved to the States. Hence, according to the Supreme Court, each State legislature can regulate individual behavior – with near plenipotentiary power – in the name of promoting public health.

### *Dobbs*, beyond the abortion issue

Through their opinion in *Dobbs*, Alito and five other justices did not outlaw abortion, rather, they made a declaration about any State-level statute which criminalizes abortion. To wit: such laws do not violate: (i) any individual liberty; or (ii) any individual right in the Constitution. What is heretofore unrecognized by mainstream commentators and legal analysts, is that these exact same arguments can be used to uphold criminal laws for refusal to be vaccinated, masked, or quarantined.

### Judges usually favor the police-state

In American law, there is no set definition for words and phrases like *liberty*, *rights*, *due process*, *etc.* No matter how they use these words, judges, branded as *liberal* or *conservative*, nearly always favor the State.

In the 1930s, the Supreme Court supported a minimum wage law<sup>3</sup> favored by president Roosevelt (a Democrat). However, these supposedly *liberal* justices also punished a man for growing his *own* food.<sup>4</sup> In 1944, these same *liberal* justices, ruled that American citizens could be imprisoned – indefinitely – due to their ancestry.<sup>5</sup> It would be nearly 75 years later, in 2018, when four so-called *conservative* justices formed part of a majority that overturned *Korematsu*.<sup>6</sup>

Since October 2001, men and boys from all over the world – even America – have been kidnapped, sold for bounties, and tortured. Some are still imprisoned – in Guantanamo or other locations.<sup>7</sup> Despite being tortured and held without charge, federal court justices, including many current members of the U.S. Supreme Court, have ruled (or litigated) that

---

1 John Calvin Jones, PhD, JD. Shanghai, China. E-mail at: [biko97jcj@hotmail.com](mailto:biko97jcj@hotmail.com)

2 *Dobbs, State Health Officer of the Mississippi Department of Health, et al. v. Jackson Women's Health Organization et al.* No. 19–1392. Argued December 1, 2021—Decided June 24, 2022 [https://www.supremecourt.gov/opinions/21pdf/19-1392\\_6j37.pdf](https://www.supremecourt.gov/opinions/21pdf/19-1392_6j37.pdf)

3 See *West Coast Hotel Co. v. Parrish*, 300 U.S. 379 (1937) (upholding federal laws on minimum wage)

4 *Wickard v. Filburn*, 317 U.S. 111 (1942) (upholding a fine and property confiscation against a family for growing food for themselves and their animals).

5 *Korematsu v. United States*, 323 U.S. 214 (1944)

6 See *Trump v. Hawaii* (2018) [https://www.supremecourt.gov/opinions/17pdf/17-965\\_h315.pdf](https://www.supremecourt.gov/opinions/17pdf/17-965_h315.pdf)

7 Hina Shamsi, Director, ACLU National Security Project. 2022. “20 Years Later, Guantánamo Remains a Disgraceful Stain on Our Nation. It Needs to End.” ACLU January 11. <https://www.aclu.org/news/human-rights/20-years-later-guantanamo-remains-a-disgraceful-stain-on-our-nation-it-needs-to-end#:~:text=Since%202002%2C%20779%20Muslim%20men,been%20charged%20with%20any%20crime>.

Jones (2022) What *Dobbs* means for mandatory vaccinations

these men can be held with secret evidence, have no right to prove their *innocence*, and no right to sue for being tortured.

I argue that such rulings serve as *prima facie* evidence that a majority of justices are far from liberal. But they do show deference to State action offered in the name of defending the State and protecting the lives of others – no matter how speculative. When we consider the implications for vaccine laws, the logic of *Dobbs* and other cases (referenced above and below), clearly, a majority of the Supreme Court will always support *paternalism*, and oppose health freedom.

### Who are these six justices?

Before I explain how *Dobbs* allows for a vaccine-police state, here is a review of the education, and legal positions of some judges.

Alito (Princeton undergraduate, Yale law school), supports strip searches of 10 year-old girls,<sup>8</sup> torture and indefinite detention<sup>9</sup>;

Roberts (Harvard, Harvard), held that in the name of public health, the State may order you to give money to a private entity (for no services) under penalty of fine and imprisonment<sup>10</sup>;

Thomas (Holy Cross, Yale) worked for Monsanto, claims that actual innocence is not a grounds to appeal a death sentence<sup>11</sup>, supports torture and indefinite detention<sup>12</sup>, claims that the state can criminalize mere association<sup>13</sup>, and held that school officials are *de jure* parents while your child is at school – or just *en route* to school<sup>14</sup>;

Kavanaugh (Yale, Yale) supports (i) *qualified immunity* for police – allowing cops to destroy your property and blow up your house; arrest, maim, torture, and kill any innocent person<sup>15</sup>; and (ii) the power of the state to imprison anyone without charge – and torture the detainee; and has denied *habeas corpus*;<sup>16</sup>

Gorsuch (Columbia, Harvard) as a lawyer in the Department of Justice during the G. W. Bush administration: (a) defended: (i) rendition and torture (of innocent men and

---

8 *Doe v Groody*, 361 F.3d 232 (3d Cir. 2004) [https://en.wikipedia.org/wiki/Doe\\_v.\\_Groody](https://en.wikipedia.org/wiki/Doe_v._Groody)

9 Alito was a member of the Supreme Court in 2007 when it denied to hear the appeal of Khalid El-Masri, an innocent man, tortured by American personnel. <https://casetext.com/case/el-masri-v-us/case-summaries>. See also *United States v Husayn* (2022) [https://www.supremecourt.gov/opinions/21pdf/20-827\\_i426.pdf](https://www.supremecourt.gov/opinions/21pdf/20-827_i426.pdf)

10 See *NFIB v Sebelius*, 567 U.S. 519 (2012), <https://constitutionallawreporter.com/wp-content/uploads/2014/07/National-Federation-of-Independent-Business-et-al.-v.-Sebelius-1.pdf>

11 *Herrera v. Collins*, 506 U.S. 390 (1993) (Thomas concurring) <https://supreme.justia.com/cases/federal/us/506/390/>; *Shinn v Ramirez* (2022), [https://www.supremecourt.gov/opinions/21pdf/20-1009\\_19m2.pdf](https://www.supremecourt.gov/opinions/21pdf/20-1009_19m2.pdf)

12 *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004) [https://en.wikipedia.org/wiki/Hamdi\\_v.\\_Rumsfeld#Opinion\\_of\\_the\\_Court](https://en.wikipedia.org/wiki/Hamdi_v._Rumsfeld#Opinion_of_the_Court) (see dissent of Thomas)

13 See *Chicago v Morales*, 527 U.S. 41 (1999) (Thomas dissent)

14 *Morse v Frederick*, 551 U.S. 393 (2007) (Thomas concurrence)

<https://supreme.justia.com/cases/federal/us/551/393/#tab-opinion-1962458>

15 See discussion of *Wesby v. District of Columbia*. <https://www.scotusblog.com/2018/07/judge-kavanaugh-on-the-fourth-amendment/>

16 See *Kiyemba v. Obama*, 561 F.3d 505 (D.C. Cir. 2009).

children); (ii), indefinite detention of the innocent; and (b) sought to eliminate the right of detainees to petition for a writ of *habeas corpus*;<sup>17</sup>

Amy Coney Barrett (Rhodes College of Tennessee, Notre Dame), supported the University of Indiana when it imposed a mandatory Covid-19 “vaccine” requirement on all students.<sup>18</sup> That is, she held that a State could bar a person from: (i) a public space; and (ii) contracted services (the right to attend class) on the basis of submitting to an experimental injection that *causes* internal bleeding, heart attack, paralysis, and death.

### Legal reasoning of *Dobbs*

The majority offered three relevant themes in *Dobbs*:

- (1) the word *abortion* is not in the constitution, therefore is it not a right that states must protect;
- (2) courts must extend near absolute deference to any legislative act that regulates health and or morals;
- (3) implied *rights* and *liberties* in the Constitution, are only those which are founded in American history and traditions prior to 1868 (if not prior to 1789)

and they wove these ideas under the umbrella of a public policy aimed at protecting *others*.<sup>19</sup> Compulsory vaccination is always justified on the grounds that it is *necessary* to save others.<sup>20</sup> And if you want to consider the jurisprudence on *vaccination* before 1868, much less 1789, you must remember, that such legal reasoning was intertwined with the science of that era too!<sup>21</sup>

### Does the Constitution establish rights?

As Alexander Hamilton wrote in *Federalist* #84<sup>22</sup>, the Constitution limits government, not individuals. He said that unjust rulers would declare that save the Bill of Rights, there are no other rights which government must protect. Just as the word *abortion* is not in the Constitution, nor are the words *vaccination* and *public health*.

Even more, sometimes Constitutional dictates are ignored. Despite the 6th Amendment, the Supreme Court sided with States *against* that right to a jury trial in *Baldwin v. New York*, 399 U.S. 66 (1970).

---

17 Charlie Savage (March 16, 2017). “Neil Gorsuch Helped Defend Disputed Bush-Era Terror Policies”. *The New York Times*. p. A13.

18 Smith, Alan, JD. 2021. “Supreme Court Denies Review of Indiana University’s COVID-19 Vaccine Mandate.” Society for Human Resource Management. <https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/coronavirus-supreme-court-denies-review-vaccine-mandate.aspx>

19 The majority held that Mississippi’s Gestational Age Act is supported by the Mississippi Legislature’s specific *findings* [sic], which include the State’s asserted interest in “protecting the life of the unborn.” §2(b) (i). These legitimate interests provide a *rational* basis for the Gestational Age Act.

20 See *e.g.*, *Bruesewitz v. Wyeth*, 562 U.S. 223 (2011); *Jacobson v. Massachusetts*, 197 U.S. 11 (1905); *Cude v. Arkansas*, 377 S.W.2d 816 (1964); *Brown v. Stone*, 378 So.2d 218 (1979)

21 See *Abeel et al., v. Clark*, 84 Cal. 226 (1890), 24 P. 383 (Cal. 1890)

22 See *Federalist* #84 at: [https://avalon.law.yale.edu/18th\\_century/fed84.asp](https://avalon.law.yale.edu/18th_century/fed84.asp)

## Police Power to be absolute?

*In re* state-level regulations of public health, *aka* the “police power”, *Dobbs*’ holds:

“courts [may] not substitute *their* ... beliefs for the judgment of legislative bodies.”  
*Ferguson v. Skrupa*, 372 U.S. 726, 729–730; and

“A law regulating abortion, *like other health and welfare laws*, is entitled to a “strong presumption of validity.” *Heller v. Doe*, 509 U.S. 312, 319. “[Said law] must be sustained [by courts] if there is a *rational basis* [*sic*] on which the legislature [thinks] it would serve *legitimate state interests*. [*Heller*], at 320.”

As judges have long ruled that mandatory vaccination laws are based on a “common knowledge” belief that vaccination promotes public health,<sup>23</sup> there is no Constitutional grounds to strike or enjoin such a law.

## History, tradition, and common law

The third claim, undergirding *Dobbs*, is a logical fallacy, an appeal to tradition. Citing *Timbs v. Indiana* (2019) they wrote:

“[Previous Supreme] Court ... decisions ... held that the *Due Process Clause* protects rights [in] the first eight Amendments ... and those rights deemed *fundamental*, [but] not mentioned .... ... the question is whether the *right* is “deeply rooted in [our] history and tradition”; and ... it is *essential* to [our] “scheme of ordered liberty.””

The *Dobbs*’ majority chastised the reasoning of *Roe*.

“Without any grounding in the constitutional text [or] history ... *Roe* imposed [*sic*], on the entire country, a detailed set of rules ... [failed] to note the overwhelming consensus of state laws ... in 1868 ... and what it said about the *common law* [in re abortion] was simply wrong.”

What those rights might be, the justices do not say. But Thomas explains:

“[o]ur Nation’s history [and] legal traditions ... provide the ... ‘guideposts for ... decision-making’ ... that direct and *restrain* ... the *Due Process Clause*.”<sup>24</sup>

To clarify, the justices hold that rights depended on the meaning of the Constitution’s *due process* clause; and Thomas insists that they are supposed to *restrain* the breadth and application of any individual protections under the rubric of *due process*.

---

23 *Potts et al. v. Breen et al.*, 47 N.E. 81 (1897), *Jacobson v. Massachusetts*, 197 US 11 (1905); see also *Zucht v. King*, 260 U.S. 174 (1922)

24 Citing *Moore v. East Cleveland*, 431 U.S. 494, 503 (1977)

Jones (2022) What *Dobbs* means for mandatory vaccinations

Because mandatory vaccination will be enforced via criminal statutes, we should reflect on the history of American *criminal* law. Unsurprisingly, many laws often criminalized Blackness,<sup>25</sup> and or minority status.<sup>26</sup>

The Fugitive Slave Act (1793)<sup>27</sup>, though contradicting contemporary English common law, said that ‘no one could escape to freedom.’<sup>28</sup> American colonies and American states outlawed miscegenation,<sup>29</sup> immigration of non-Europeans,<sup>30</sup> and birth right citizenship for American Indians.<sup>31</sup>

Laws against drug possession started in 1875, targeting Chinese immigrants,<sup>32</sup> then Mexicans and Mexican Americans,<sup>33</sup> and Blacks.<sup>34</sup> Laws against vagrancy were purposely designed to re-enslave Blacks.<sup>35</sup> Nevertheless, Thomas defends laws that allow police to arrest us for innocent activity, through an *appeal to history*.

“freedom to loiter, for innocent purposes, is [not] deeply rooted in this Nation’s history and tradition”<sup>36</sup>

Neither is *freedom from vaccination* deeply rooted in American history. According to the *Dobbs*’ majority, they allude that such *history* means that today, you should not be free from vaccines either.

---

25 See *Loving v. Virginia*, 388 U.S. 1 (1967); see also *Dred Scott v. Sandford* (1856).

26 see *Employment Division v. Smith*, 494 U.S. 872 (1990), Blackmun (dissenting) lists criminal laws against American Indians. <https://supreme.justia.com/cases/federal/us/494/872/#tab-opinion-1958253>.

27 See [https://en.wikipedia.org/wiki/Fugitive\\_Slave\\_Act\\_of\\_1793](https://en.wikipedia.org/wiki/Fugitive_Slave_Act_of_1793). The law gave effect to the Extradition Clause (Article 4, Section 2, Clause 2) and guaranteed a right for a slaveholder to recover an escaped slave. The “Act respecting fugitives from justice, and persons escaping from the service of their masters,” created the legal mechanism by which that could be accomplished. See *Prigg v. Pennsylvania*, 41 U.S. 539 (1842).

28 See *Somerset v Stewart* (1772) 98 ER 499, where a Crown judge held that any enslaved person were manumitted *per se* by their mere presence on British soil. (An example of the *Law of the Land*).

29 See *Dred Scott v. Sandford* (1856), paragraph 61:

“Massachusetts, in 1786, passed a law ... like the law of 1705, [that] forbids the marriage of any white person with any negro, Indian, or mulatto ...; and declares all such marriage absolutely null and void, and degrades ... the issue of the marriage [with] the stain of bastardy. ... [The] revised code [of] 1836 ... forbids any person from joining in marriage, any white person, with any Indian, negro, or mulatto, and subjects [offenders] to imprisonment, not exceeding six months ...”

30 Note the Chinese Exclusion Act of 1882. <https://www.archives.gov/milestone-documents/chinese-exclusion-act>

31 See *Elk v. Wilkins*, 112 U.S. 94 (1884)

32 Gieringer, Dale. 2000. 125th Anniversary of the First U.S. Anti-Drug Law: San Francisco’s Opium Den Ordinance (November 15, 1875). *DrugSense*, November. <http://www.drugsense.org/dpfca/opiumlaw.html> (On November 15, 1875, the San Francisco Board of Supervisors passed an ordinance making it a misdemeanor to keep or frequent opium dens).

33 On June 3, 1915, the City Council of El Paso passed an ordinance making it “unlawful for any person ... to sell .. or possess ... marihuana or Indian Hemp.” See El Paso, Texas’ 1915 Marihuana Ordinance: Myths and Rumors, by Bob Chessey, El Paso, Texas. <https://groups.google.com/g/frontera-list/c/kslTY7w7aPY?pli=1>

34 See *Department of Housing and Urban Development v. Rucker*, 535 U.S. 125 (2002)

35 *Hibel v. Sixth Judicial District. Court of Nevada, Humboldt County*, 542 U.S. 177 (2004) (reversing precedent, and upholding a conviction for mere refusal to identify).

36 See *Chicago v Morales*, 527 U.S. 41, 98 (1999).

### ***Democracy, allowing Pharma wolves to harvest the sheeple?***

Further, the *Dobbs*' majority offers a perverted sense of *democracy*, and or ignores that the American Constitution is designed to save us *from* democratic processes.

In 1787, the Constitution was offered with the express provision that her independent judiciary would protect minorities from a numerical majority. Speaking about the *ills* of democracy, in *Federalist #10*, James Madison wrote:

“a pure democracy, ... there is nothing to check the [majority faction] to sacrifice the weaker party .... Hence it is that such democracies ... have ever been found incompatible with personal security or the rights of property ....”

The *Dobbs*' majority declared that through *Roe*, judges were tyrannical, because judges *prevented* intrusions on liberty?!

“[After *Roe*], those on the losing side ... could no longer seek to persuade their elected representatives to adopt ... their views. The [Supreme] Court short-circuited the democratic process ... to the large number of Americans who disagreed with *Roe*.”

But *Roe* protected a political minority (that small number of women seeking to terminate a pregnancy). And now the Court invites majorities to take away personal security – in the name of public health.

### **More medical tyranny coming soon?**

So what now? The *Dobbs*' majority has declared overtly, that exercises of police power will receive deference, under the logic of their *rational basis* analysis.

Presently legislatures in California, Maine, New York, West Virginia, and Mississippi have mandated that school-aged children get injections for mumps, hepatitis B, pertussis, rubella, chicken pox, meningitis, influenza, measles, polio, diarrhea (Rota virus), diphtheria, and pneumonia. There was no public demand for that. Vaccine mandates were the product of corporate bribes and PR campaigns.

Going forward, new vaccine laws will apply to all ages – from newborns to those over 100 years old. There will be no opting out if States mandate shots (or jail and fine) for Covid, yellow fever, leprosy, smallpox, dengue fever, monkey pox, HPV, *etc.* American courts are inclined to uphold any State laws calling for mandatory lockdowns and forced injections. They already did it.

In May 2020, Roberts, writing for a 5-4 majority, refused to enjoin state laws which banned church attendance.<sup>37</sup> (Though six months later, other judges enjoined a similar New York law, religious freedom is stated plainly in the First Amendment).<sup>38</sup> Importantly in August

---

37 See *South Bay United Pentecostal Church, et al. v. Gavin Newsom, et al.*  
[https://www.supremecourt.gov/opinions/19pdf/19a1044\\_pok0.pdf](https://www.supremecourt.gov/opinions/19pdf/19a1044_pok0.pdf);

38 See *Roman Catholic Diocese of Brooklyn, New York v. Andrew M. Cuomo*,  
[https://www.supremecourt.gov/opinions/20pdf/20a87\\_4g15.pdf](https://www.supremecourt.gov/opinions/20pdf/20a87_4g15.pdf).

Jones (2022) What *Dobbs* means for mandatory vaccinations

2021, the same justices in *Cuomo*, upheld vaccine mandates for students at the University of Indiana.<sup>39</sup>

### **Time to get active**

As a political scientist and legal scholar, I offer a last piece of advice: Get active, run for office or elect state legislators and sheriffs who will not adopt or enforce mandatory vaccination laws. Prepare to or move to states that support freedom of *choice*.

---

39 Smith, Alan, JD. 2021. "Supreme Court Denies Review of Indiana University's COVID-19 Vaccine Mandate." Society for Human Resource Management. <https://www.shrm.org/resourcesandtools/legal-and-compliance/employment-law/pages/coronavirus-supreme-court-denies-review-vaccine-mandate.aspx>