

regime that paradoxically facilitated fealty to democratic constitutionalism among elites after apartheid (Meierhenrich 2008). Smith contrasts apartheid's "capricious legal apparatus" with the post-apartheid democracy's "procedure-less" treatment of survivors under the guise of neutrality toward criminal defendants (5, 79). As Smith observes, to many of South Africa's poor, the democratic nation's "modernist bureaucratic apparatuses" lack "neutral substance" (211). Rather than bringing peace, the democratic transition cemented certain aspects of apartheid's structural violence.

The sheer quantity and social saturation of the legal and political contradictions that this book documents leaves the reader wrestling with discomfort. Smith's empirical findings show how democratic governance may create the very problems that democracy ought to be solving. Summarizing his findings, Smith writes that "state violence is not exceptional to democratic governance...It is essential to democratic governance" (214–215). This pronouncement may not surprise migrants, the urban poor, racial and ethnic minorities, and those who face the barrels of other people's guns. But Smith pushes further. Democratic states—here, Smith throws down his gauntlet—"have an authoritarian core to how they rule" (215). This conclusion—and this book—is bracing and important, for South Africans, for international lawyers who promote democracy, and for scholars who seek to understand how rights can fail.

References

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Beyond Abortion: Roe v. Wade and the Battle for Privacy. By Mary Ziegler. Cambridge: Harvard University Press, 2018. 400 pp. \$46.50 hardcover

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Roe v. Wade is perhaps the most famous case in the history of the US Supreme Court. It has been used as a litmus test for candidates for judicial office, and it has served as a lightning rod for

modern constitutional law. *Roe* has been compared to both the reviled decision in *Dred Scott*, refusing citizenship status to African Americans, and the celebrated desegregation case, *Brown v. Board of Education*—it has been denounced for denying fetal personhood and acclaimed for advancing women's equality. *Roe* has been the subject of much scholarly study, but almost all of it focuses on its role in the struggle for reproductive rights and reproductive justice. In *Beyond Abortion*, Mary Ziegler sidesteps many of these controversies, concentrating instead on *Roe*'s reverberations within other social movements far removed from the issue of abortion: "Many social movements not involved in abortion politics have drawn from *Roe*'s power, reasoned from *Roe*'s idea of privacy, and projected deeply different meanings onto the Court's decision" (1). Deftly weaving together archival data drawn from strategy papers, meeting minutes, and correspondence from the disparate social movements that have utilized *Roe*, as well as original oral histories, *Beyond Abortion* is an incredibly ambitious project, which aims to tell "[t]he stories of the remarkable range of Americans who sought to apply *Roe* far beyond the abortion wars [and to] show how unfamiliar ideas about the right to privacy promised to change American life and law" (2).

Ziegler begins by briefly summarizing the history leading up to *Roe v. Wade* and the scholarly debate surrounding the decision. Moving chronologically through various periods of activism, Ziegler next provides a detailed description of the different social movements that have relied upon *Roe* to demand social change. She documents the rise and fall of the American Civil Liberties Union's Sexual Privacy Project, funded in part by donations from the Playboy Foundation, which attempted to transform privacy into an expansive right to sexual freedom that would shield the activities of diverse groups, ranging from sex workers to gays and lesbians: "Whether sex was for money or for free, whether it was with someone of the same sex or the opposite sex, activists insisted that sex was always an 'issue of self-determination...the right to control our own bodies'" (43). She then turns to the role of privacy arguments in the medical context, including mental health activists who relied upon *Roe* to argue for a constitutional right to choose or refuse medical treatment and civil libertarians, free market conservatives, and alternative health care practitioners who advocated a broader consumer revolution in health care: "They argued that the Constitution gave individuals the right to pursue unproven treatments and to dictate what happened to sensitive medical information" (123). In the final chapters, Ziegler addresses activism by those who attempted to extend *Roe* to encompass a constitutional right to die, and by those who sought to oppose *Roe* with conscientious objection and calls to curtail overreaching by the judiciary.

Beyond Abortion uncovers the multiple meanings of *Roe v. Wade* and the right to privacy, vividly articulated in the manifold voices of activists from a wide swath of social movements not confined to those with a particular political valence. Ziegler reveals the ways in which *Roe's* powerful ideas about privacy, choice, and autonomy captured the popular imagination and spawned dramatically different readings of the right to privacy, including some roads not taken and missed opportunities. Many of the stories of activism Ziegler recounts may be unfamiliar and fascinating to those well versed in the traditional scholarship surrounding *Roe*, such as tales of the “cancer underground” (140), the “Laetrile wars” (122), and the “Insane Liberation Front” (93). Today, *Roe* is touted by conservatives as the ultimate emblem of judicial dereliction and abuse, so it is surprising to learn that the decision was once cited by conservatives like Senator Barry Goldwater, the Republican presidential nominee in 1964. *Roe* has also faced criticism from feminists and progressives, many of whom allege that the right to privacy reinforces the status quo and exacerbates inequality, but Ziegler elucidates the arguments of feminists and progressives who tried to transform privacy to fulfill its untapped promise and potential to achieve human dignity and equality.

Taken together, these contradictory portraits of activism paint a multilayered and complex picture of the right to privacy, one that could be invoked both by those seeking to keep government out of the private sphere and by those calling upon the government to intervene to prevent discrimination and provide public assistance. By meticulously documenting this varied social history and eloquently elaborating upon its implications, Ziegler brilliantly demonstrates *Roe's* enduring significance as a symbol that stands for multiple, often inconsistent ideals, and reaffirms its continued relevance to current debates.

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Skimmed: Breastfeeding, Race, and Injustice. By Andrea Freeman. Stanford, CA: Stanford University Press, 2020. 304 pp. \$28.00 cloth

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Drawing beautifully on a well-established set of literatures regarding Black motherhood, law, and policy in the United States,