

# High Court Must Reject Unconstitutional La. Abortion Law

By **Charanya Krishnaswami and Michele Coleman Mayes** (March 4, 2020)

Lawyers are trained to speak the language of the law, which almost never includes talking about our personal experiences. But as members of a profession charged with advocating for the rule of law and against oppression and discrimination, we now feel compelled to come forward.

Constitutional rights are on the line, and it is time to set aside reluctance to disclose not just that we ourselves have exercised our constitutional right to an abortion, but how and why, and what it has meant for our lives and aspirations.

We are two of the 368 lawyers who have had abortions who recently submitted an amicus brief to the U.S. Supreme Court in *June Medical Services v. Russo*, a case addressing the right to abortion argued on March 4. We did so (for some of our fellow signatories, at real professional and personal cost) because the case will determine the fate of yet another unconstitutional attempt to infringe on the rights of people seeking abortion care.

The Louisiana law at issue requires doctors who provide abortions to have admitting privileges at a hospital within 30 miles, just like the Texas law the court struck down as unconstitutional a mere four years ago. Since many hospitals simply refuse to provide admitting privileges to doctors who provide abortion care, the law would shutter all but one clinic, leaving a lone physician to serve the more than 10,000 people who seek abortion across Louisiana's 52,000 square miles every year.

Informed by both our legal training and our personal experiences, we believe the Supreme Court must find that Louisiana's admitting privileges law unconstitutionally restricts the right to abortion. Our training and experiences span decades, given that we entered the legal profession at different times — from shortly after *Roe v. Wade* was decided in 1973, up until when *June Medical* was making its way through the lower courts.

But differences of experience aside, we both know firsthand that the law violates the Constitution's guarantee of liberty because it would prevent women from making individual, foundational decisions about their lives, health, families and aspirations — decisions that have allowed us to define our places in the world.

One of us knew that she wanted to be a lawyer and that motherhood was not the right choice for her when she became unexpectedly pregnant in college in 1969. She is incredibly grateful to have been able to obtain a safe abortion through a family connection to the medical community in Detroit.

A young relative was not so lucky and met her demise — proof that other women at that time were not so fortunate. She went on to become a senior attorney at the U.S. Department of Justice, a door that was open to very few women of color, and has served as general counsel to multiple major institutions.

And one of us became unexpectedly pregnant while working as a public interest fellow after



Charanya Krishnaswami



Michele Coleman  
Mayes

law school and clerking for a federal judge. Because abortion was accessible in California and covered by insurance that offset the otherwise prohibitive cost, she was able to embark on the career fighting for the human rights of refugees and asylum seekers that drove her to decide to become a lawyer.

We cannot imagine what our lives would have been like without access to abortion. We would have been forced to abandon our dreams of working to advance justice and equality, instead remaining in stifling or harmful relationships or parenting on our own with all the daunting challenges that would have generated.

We would have been unable to break barriers that have long held back women and people of color, nor could we have entered rooms where the fight for respect continues today. Access to abortion helped us become who we are: women of color who are active members in a profession that has for far too long had few people who look like us.

Our stories mirror those of our fellow amici, who include law firm partners, public interest leaders, counsel to multinational companies, state officials, and people working in all branches of the federal government. Our fellow signers included judges, prosecutors, public defenders, private practitioners, professors and law students.

As a group, we obtained abortions for reasons equally diverse — because of medical conditions, because of fetal health, because we were unready to be parents, because we were already parents, out of empowerment and when abortion felt like the only possible choice. Without access to abortion we could not have been agents of our own reproductive lives — agency that we have exercised in different ways, because whether or when to become a parent is a decision that each person must make for themselves.

At the time we sought abortion access, we fell silent. We felt we could not disclose our abortions to many people in our lives, and in some cases were made to feel intense shame and stigma because of our decisions. Certainly, we could not have filed lawsuits challenging abortion restrictions while we were pregnant and seeking access to medical care — an argument that Louisiana now puts before the Supreme Court in an effort to strip abortion providers of their ability to bring cases.

The impediments would have been enormous, and our work as lawyers who have spent months preparing and filing cases, even without personal privacy concerns, makes this all the more apparent.

As lawyers, we can readily cite language from the Supreme Court's decisions about the meaning of liberty, which the court had long understood to require the right to control one's reproductive life. As we stated at the outset, it's harder to come forward to talk about our personal experiences having exercised this right. But with abortion access hanging in the balance, we feel obligated to step up.

If the court retreats from the promise of reproductive freedom, it will deal a massive blow to women's pursuit of equality and to our participation in the economic and social life of the nation. We would know.

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*Charanya Krishnaswami is the Americas advocacy director at Amnesty International USA, and Michele Coleman Mayes is vice president, general counsel and secretary of the New York Public Library.*

*Disclosure: The authors were among 368 legal professionals who submitted an amicus brief to the U.S. Supreme Court in support of the petitioners in June Medical Services v. Russo.*

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