

This interview has been lightly edited for clarity.

AMELIA BONOW:

Hi, everybody!

Hi, participants joining this very special Abortion Academy. I'm just kind of going to launch right in, because today is special in that this abortion Academy is bookended by the very first presidential debate-

RHIANNON HAMAM:

Boo!

AB:

We know that some people like self-harm and are going to watch it. So we want to not fuck around on the front end of this and spend six min letting people be late, and you can just watch it later, or whenever you get here.

So I'm just gonna get right into all of this. My name is Amelia Bonow. I use she/ her pronouns, and I'm the co-founder and executive director of Shout Your Abortion, which is a nationwide organization, working to normalize abortion and elevate paths to safe access, regardless of legality. We make resources, campaigns, and media intended to arm existing activists, create new ones and foster collective participation in abortion, access all over the country.

So, Abortion Academy is a monthly Webinar series where we get to introduce you to one of our exceptionally brilliant colleagues, and we hope that abortion Academy is something that deepens your knowledge, helps you connect some of the dots between the issues that you're navigating on the ground regionally and what's happening at the national and even the international level. And, ultimately, to give you fresh ideas to take back into your communities.

Audience members will be off camera and muted for security reasons. But you will be able to ask questions in the chat. This session is a little bit different because usually we have folks come and give a presentation, and this is going to be more of a convo today.

I am joined by Rhiannon Hamam, who is a lawyer in Texas. She is a former public defender and co-host of the Five to Four podcasts about the Supreme Court and the Conservative legal movement. She's an organizer with the Palestinian youth movement, and currently she works with law students in an experiential learning setting. And Rhiannon and I are kind of just going to chat. It's like a little bit of an AMA format, and that we want you to feel free to ask questions in the chat. But we have some ideas about things we want to touch on, so no promises about being able to get to all of your amazing questions.

So, Rhiannon and 5 to 4. You know, I don't know. Rhiannon cries on the podcast, sometimes. So I feel like it would be okay if I cried, and I cry like I cry like every day, and like-

RH:

Oh, don't make me cry!

AB:

I will try not to. Like I don't know. I have no idea if you set out to make an important thing, or even a successful thing. But this thing, 5 to 4, is very much both of those, and I don't mean important in terms of like cred or listeners, although it definitely has that. I mean important in that I truly believe that this podcast has helped to normalize flagrant disrespect for this completely undemocratic institution. And I can't even believe that I need to say this part, but to see this political institution as a political institution that is doing politics-

RH:

Yeah.

AB:

And the megalomaniacal little freaks on this bench as political operatives. And 5 to 4 has been really important for me personally. Like I started-

I discovered it right during the pandemic. I think it was right around the time of SBA. I was fucking, walking around, feeling weird, and listening to stuff. And the first episode that I listened to was just the Roe Vs. Wade ones that you guys did, just, you know, doing my thing of listening to every abortion episode. And this episode concludes with Rhiannon saying the following, and I quote:

“I think there's a lot of potential for organizing on the left, just like Conservatives did, and the PR strategy should be focused on normalizing abortion again as necessary healthcare and normal healthcare for millions of people. And you know what I'll start. I'll start the PR strategy. I got an abortion. It was fucking awesome. I wasn't sad about it. I'd do it again. Fuck you.”

RH:

And I did do it again in Texas after Dobbs, so let's go.

AB:

You talked about that one on the podcast, too! I was like, Wait, is she? Was this another? Okay? Yeah. Who cares? Fuck? It.

RH:

Yeah.

AB:

So like I just, you know, I was doing a ton of thinking as I was discovering your podcast. About like what the fuck the rest of my life is gonna look like as a person who is going to work to facilitate abortion access for the rest of my life in a country that has obliterated abortion rights.

And what is the role of like this organization in all of that? And 5 to 4 really helped me understand that like during that time, not just like the foundations of like the opps and of conservative power in the conservative legal movement. But I think it helped my own thoughts come together, and that like, yes, these people have a ton of power, but laws work as collective agreements. And I want to invite people to opt all the way the fuck out, and have as much power as we give them in in a certain way.

So with that, hello, Rhiannon, we're fucking obsessed with you.

RH:

Hey, thank you so much for having me. I feel like Amelia and I have been fangirling over each other from like a bit of a distance for a really long time. I've been such a huge fan and have talked about Shout Your Abortion on the podcast a few times. And yeah, I'm just so glad to be here. I should say I also use she/her pronouns. So excited to talk to everybody today.

And yeah, I mean, I don't know that we set out on the podcast with any preconception about how successful it would be. In fact, we did not expect it to be successful. We thought like, maybe, you know, maybe like 500 Lefty dirt bag lawyers on Twitter, who work about the podcast would listen to it, right? And then it really blew up. And I think we really... I think we realize that there was such a gap, there was such a hole in coverage of the Supreme Court that was real about what was going on for once, right? Like real people. You don't have to be a lawyer, like people know, people on the street know, like there's something fucking off about what's happening at the Supreme Court. It's dark, and it's a curse right now, right?

And so, I think we were just like, maybe just a little bit limited in not understanding what a huge gap there was in like coverage and just conversation, like real people about what was really happening at the court. Right? And so, yeah, it's been great. And I think part of what makes us successful, too, is talking about not the Supreme Court in this abstract way, or the cases in this abstract way, but talking about like real effect on human beings. Right? And how exactly like you said Amelia, like the law is about who's in power, and not some sort of you know, objective or like organic thing that like where there's like this real sort of objective process, and you result in the law, right? Or you result in laws in general. But yeah, that it's completely political, just like other areas of our politics. What becomes the law and what gets struck down as law and how judges operate is, yeah, completely, a function of those people's politics.

AB:

Right. I'm drinking cabernet out of my 'Stephen Breyer, retire, bitch' mug, and I think that we all know that you did that.

RH:

Yeah, we take. We take credit for Stephen Breyer's retirement. So that KBJ could get on the court. look, the whole Supreme Court is fucked, and it's an undemocratic institution. But Stephen Breyer needed to retire. And so our merch, said 'Stephen Breyer, retire bitch' and yeah. And I think we really pushed him over the line to make that announcement.

AB:

So you know, today was like we knew we were going to be talking today, and we knew that there was a major chance that the Emtala decision would come down today, which it kind of did. But yesterday, because these messy, leaky bitches and I just have to first off ask, what's your take on what the fuck is up with Justice Alito?

RH:

Yeah. I really have no idea. I saw...I don't know if I saw the actual version that was leaked or like released early. I heard that it was missing Kagan's descent or not her descent, but, her conclusion of Kagan's concurrence. And so I guess, like, yeah, like, what's going on like, everything like... our nation's crumbling infrastructure applies also to the Supreme Court printing and posting PDFs online, you know? I don't. I don't know what's going on. I know that there's like a police-

AB:

Fucking flags upside down.

RH:

Right? Right? They're just. They're just dysfunctional freaks. Yeah.

AB:

There's such freaks. Yeah, I was like, is this Alito? It was weird 'cause it was like a SCOTUS blog update, though. I don't know. Maybe next time it will come it will- The leak will be on like a punisher letterhead.

RH:

There's like there's like a thin blue line across the top. Yeah.

AB:

For the record, I think that would be less fucking insane to me to fly that flag than an upside down American flag, which to me is saying, America is over, and something bad's going to happen, and when the person that is America is saying that shit-

RH:

Right.

AB:

Fucking wild.

RH:

Yeah, no, it's super wild. It's very like...it's very imbued with this kind of doomsday end of times, Christian radicalism thing. And yeah, yeah, it's a scary world view that is like...I'm deeply

uncomfortable with one of the most powerful people in the country, maybe the world, having these kinds of views.

AB:

Yeah. Okay, so, I feel like we, the people that are here, are going to watch this probably have already consumed some analysis of EMTALA and the Miffy case. But do you have anything that you'd like to say or add about those decisions to like, you know the sort of general consensus of like they're kicking the can down the road?

RH:

I think that, you know I would say that, like I share in Justice Jackson's frustration about kicking the can where she's just like, no, you heard how crazy Idaho's lawyers were talking about this at oral argument like they said that it was crazy. We can decide this on the merits right now. Like EMTALA, the Federal law clearly preempts this crazy Idaho State law. We need to be able to say that right now. Why are we kicking the can right? So I sort of...I definitely agree that on the merits it's already clear, and they don't have to do this weird, procedural thing, and I'm I'm sure you know, other people kind of generally agree here. I kinda wanna point out that I think it's so dark, and I hate to harp on this, but it is the reality which is that Alito's dissent is really really dark and crazy. You know, dissent saying the same thing that KBJ is saying, but would come out the other way, right? It is saying, no, we can decide this right now. We don't need to kick the can. Idaho's laws are fine. And it's okay that women will have very serious...women and pregnant people will have very serious health problems where there is a chance of death and Idaho should be able to say that they're not gonna give abortions, right?

He has this section in the dissent where his descent is joined by two justices, Clarence Thomas and Neil Gorsuch, but only in parts. And there's a section of the descent that only Clarence Thomas joins which you know, kind of shows how absolutely batshit this part of the descent is. He says, specifically like he hones in on this medical issue or this condition, where the amniotic sack breaks right. And Alito says that before the 24th week of pregnancy, abortions under this law in Idaho should be prohibited, and he goes into in detail how dangerous and what kind of very serious health conditions come up for pregnant people when the amniotic sac breaks before the 24th week of pregnancy, and lays that out in detail. He says the pregnant person will have to be on complete bed rest for the remainder of the pregnancy. He says that he recognizes that up to 37% of pregnant people who don't have abortions with this condition go into septic shock.

And then he says, you know, yeah, serious health problems are almost universal. If you don't have an abortion, and you have this condition, but because only one to five percent of pregnant people with this condition die then abortion should be illegal. Right under this law in Idaho. It's depraved. It's really, really depraved. And yeah, I think it's just like a reminder of again, this is political. This is about their.. This is completely results oriented adjudication. Right? They want that result. And so that's how they'll analyze the law to get to that result. And they truly do not care about people's wellness, health, safety. Not at all.

AB:

And like, okay, so that is creepy. I mean, like, in the way that it's like psychotic. But it's also creepy in that it's like a backdoor....It seems like it's setting up a personhood argument right?

RH:

Yeah, yeah, absolutely. He says, like, that it, you know, he puts in throughout the dissent that harming the unborn is something that has to be considered.

And yeah, yeah, and he's been super sympathetic and a proponent of this kind of fetal personhood stuff in the law in the past. And so, yeah, that's kind of like imbued throughout. Alito's decision on abortion. Yeah.

AB:

So, okay. I think it...Yeah, it's so it's so dark. It's so.

RH:

Yeah, yeah.

AB:

His name, too, like Alito and Scalia like it, just puts me backwards, you know. Like if I was a dog, it would give me one of those fucked up Mohawks of beer, you know.

RH:

Right, the cat arching its back. Yeah.

AB:

Yeah. Um, okay. So like, I want you to just set up our conversation. But I don't want to take up your precious time having you define googlable terms. But I think that it would be helpful if you could offer just a brief definition of like the conservative legal project's origin/definition, and like the function that it serves and maybe we've been a little bit of Federal society and sort of like, if you could just talk about I think also the function of Roe in not only in building power for conservatives, not just in like ending abortion, you know. Like yeah, we accomplished a political pro project, but, like in building power via that project.

RH:

Yes, yes, absolutely. Yeah. And I mean, I can talk about this at length. We talk about it on the podcast. As really-

AB:

And then 5 to 4 has three Federal society episodes or something, and the whole thing is about the conservative legal project. Don't sleep on it, but for sure, just like, go listen to the abortion episodes, listen to the Federalist society episodes that's like the real framework that you need.

RH:

Yeah, yeah, no. I think the way to think about the conservative legal movement is that the conservative legal movement has been ascendant right, and is now enjoying real victories that they have put into place and fought for in a baldly political way. Right? For, you know, 40, 50 years now. This has been a decades-long project of elite, moneyed, wealthy conservative interests deciding that, or actually understanding the reality, that their positions are incredibly minoritarian, that they don't enjoy popular support for their policy preferences. And so the only way, then, to attain those policy preferences in the law is to capture the courts, right? The least democratic, and, in fact, incredibly undemocratic, you know, branch of government right? So... and so that's what they said about doing.

And you know, we talk about the we talk on the podcast there's a lot of history, too. You know, there's a conservative reaction to the new deal of the 1930s where they don't like the expansion of the Federal Government. They don't like the expansion of things like labor rights. That kind of thing. They don't like the expand. They don't like the expansion of Federal government programs that help poor people, right?

But really, you see a strong conservative reaction and consolidation around issues after in reaction to the civil rights movement and in reaction to feminism and the women's rights movement and cases like Roe V. Wade, right. So Roe V. Wade is decided in the early 1970s, and a conservative legal movement is propelled to ascendance again gaining steam, because, you know, because of all the conservative whether that's like a populist and christian right conservative. Or, again, those elite, moneyed, wealthy interests, you know, making this remaking, really, the Republican party, right? And so, you know, it's back in the eighties that Mitch McConnell. Super psycho, right? Everybody knows super psycho. It's back in the eighties that Mitch McConnell is saying openly, 'Our party needs to take court seriously. We need to be putting in judges who agree with us, who we know will deliver on overturning Roe V. Wade.' and multiple times, you know, conservative justices, you know, before Dobbs, justices like, say, Anthony Kennedy, or suitor who turned more liberal, or Sandra Day O'Connor, who wrote the opinion and planned parenthood v Casey. Those justices disappointed the Conservative movement, and were criticized right openly by conservatives for not overturning Roe v. Wade. And so, you know, during these past decades, there's the Federalist Society also operating in the background. Only now, since the Trump administration, really like, you know, kind of out in the open. We know who the Federalist Society is.

But again, since the early eighties, you know, dark money consolidating in being used to build up the Federalist society, the Federalist society gaining power not only in like conservative legal issues, but also in among judges and becoming this network for conservative judges, becoming an institution where conservative judges are like trying out. They're auditioning, right?

So the Federalist Society then chooses their favorites, starts making these lists, and then you have a Donald Trump presidency, where he's saying, like, yeah, I get the list of nominees for the

Supreme Court from the Federalist Society. I'll nominate people who are on that list, and deliver on the decades long promise that the Supreme Court, with the conservative Super majority, would finally overturn Roe v. Wade.

Right? So yeah, I think the important takeaways are like, it's a decades long project. The Conservatives have already packed the courts in their way. Right? And it's completely, completely political, no matter how much no matter how much anybody- lawyers or whoever tries to tell you that the judicial branch is some, you know, separate, apolitical, objective wing of the government, right?

AB:

So, flip side, something that is not a successful decades long project...Let's talk about the Democrats.

RH:

Yeah.

AB:

And I ask you, in a serious way, like objectively speaking, Democrats are not good at power. Right? They're not seemingly good at organizing, definitely with a super complex like multi-tiered, you know, many hybrids like just a project to infiltrate every sort of institution in the way that you've just described that something like the Federalist Society did. They certainly are like, not good at that in general.

RH:

Right.

AB:

In fact, they're fucking losers in general. I want to hear, like your take on specifically abortion. Do you have any theories about... What are your theories about why Democrats have been so feckless on this issue? How do they manage to lose on this issue?

RH:

Yeah, you know, we talk about this a lot, too. I know the question is specific to abortion. But I think I have to start a little bit bigger and say something which I think my Co-Host, Michael, on the podcast kind of says a lot and says, really well, which is that electoral, you know, both parties do this. But the Democrats have this really special way of flopping on this, where the Democratic party, instead of being focused on good governance. And what you actually do when you get elected, what you do with that power in governing our society. Democrats focus too much on winning elections, that that's the goal, right? That's the political goal, that our biggest political aspirations are that we elect Democrats and then Democrats are in office, and then there's nothing else. There's no substance or plan. Or, again, political goals about actually governing in a way that liberals, progressives, the people who make up the Democratic party actually want, right?

I think there's also a problem, sort of structurally, in the Democratic party. And we talk about this, too, that it's like a big tent party that is more about let's say, like different identities coming together in a party, right? It's you know...It's a party for Black voters overwhelmingly, right? It's a party for people of color. It's a party for labor unions. It's a party for these kinds of different identities, whereas on the right, the Republican party is a party that is ideological, about shared ideology.

AB:

Oh, like Hegemony.

RH:

Right? Right? Absolutely. And so you know, the Democratic party again gets a little loosey goosey with its politics and with its ideology by nature of that kind of configuration. Right? So I think those are kind of like two things to point out about where they really drop the ball and then on abortion, specifically, I mean, I think it comes back to that governance thing right? And I think it comes back to also, you know, that the people in the Democratic party with the most power, you know, they've been doing this and in their positions for a really long time. Joe Biden has been-

AB:

The youngest person ever elected to the Senate.

RH:

Right in like December.

AB:

And 30. Yeah.

RH:

Right in the 1910s. Right? He's been doing this a long time, and it's a good...it's a good example that Joe Biden has been doing this a long time, and his entire career has been marked with political success, at least in this electoral sense that he keeps getting elected to shit or appointed to shit. Right?

Because he has and talks about... because he has the views that he has, and because he talks about the issues in the way that he talks about the issues. He's been rewarded by the party for being like this, right? And they all have to some extent. And so you know that that, I think, gets you to a land where, like Dobbs, comes down-number one: completely foreseeably, right? And they clearly... the party has no plan for what to do, how to talk about it. Nothing.

I think, I said, on the podcast, maybe just like with SB8 in Texas, like, why is Kamala Harris not on fucking TV right now? Like, where are they? Right? And even since then, when they do interviews on it, it's like, what about what are you talking about? Doing actually nothing politically, doing actually nothing legislatively. And yeah, I think it's like it's really sad to say,

because, of course, the Republicans are so fucking scary, right? I don't want Republicans to win. It's a sad state of things that like this is a party that just like runs around chasing its tail and thinks that just winning elections is the goal of things, and that they can do that by default, by just not being totally Republicans. You know?

AB:

Yeah, yeah. being like, we're not actively trying to overthrow the government.

RH:

Right. Right. Exactly like I, yeah, I didn't call for January 6. So...

AB:

Yeah, yeah, there was. You started getting warbly for me in the middle of that so I didn't catch some of it. My Internet is fucked up hopefully. Everything's okay from here on out. But I think that you touched on the thing I want to say. You know, you were like they're rewarded for speaking about this in all of the same way that they have for 50 years.

RH:

Yeah.

AB:

And what I wanna say is that I think it's really fucked up that when people talk to... I mean, I'll just speak from my own experience. I think it's really fucked up when people talk to me like I need to express some uncritical, fealty, and enthusiasm for Joe Biden and the Democratic party, or else I'm contributing to the other thing happening.

RH:

Yeah.

AB:

Because the only people that are responsible for the enthusiasm or lack thereof surrounding a candidate or a campaign is that candidate. And I fucking hope they pull it out. Of course I hope they pull it out, because I'm not an accelerationist, and I'm not a psychopath.

RH:

Right.

AB:

And I also in many ways think they fucking deserve to lose. There's so much worse at politics than the other side, just objectively speaking. If we look at politics as the way that you use power like, I'm so sick of Democrats being in power, for example, in the House, Senate and the White House, and saying, we can't do...we can't use our power.

RH:
Right.

AB:
All I want is people to be in politics who are like, I'm gonna go get that power and I'm gonna fucking drive it like I stole it. I'm gonna go hard as fucking possible, which is all that the other side ever does, and then we end up in situations where they do shit like pass SB8, which is fucking illegal, and functionally ends abortion a year before abortion rights go away.

RH:
Exactly.

AB:
And Democrats are just like tripping over their dicks and talking about a promise to restore Roe which no one wants 'cause it was bad, and it broke.

RH:
Yeah, yeah, yeah, exactly. It was like, not even the floor, right? Like, Roe wasn't protecting us when row was..was..

AB:
No!

RH:
Right, like, so.

AB:
Really, yeah, it's like maddening. The only other thing that I think needs to be part of this analysis of how they fucked up abortion is abortion stigma, you know, because they think that, like ultimately, like Republicans and the conservative legal project, and the moral majority and all of that shit, you know, when they stopped being able to just be like, Hey, we're racist pieces of shit, let's do segregation. They were like oops, we need a new moral high ground. Let's rebrand abortion as murder. And then us as the party who, as you said, like we are trying to message something more complex than hegemony, and like Christo, fascist, fucking corporate rule, or whatever.

RH:
Right.

AB:
And abortion is complex. The way that people experience and understand abortion is complex.

RH:
Yeah.

AB:

Policy is fucking not.

RH:

Right.

AB:

And Democrats did not ever, I think, figure out how to respond or not even respond. They didn't ever figure out how to talk about abortion in a way that wasn't...that was not just a total response to stigma. They were like on the defense, the whole fucking time and kicking the can down the road, and I think that you still, I mean, you know, Joe Biden has still never said the word abortion, I don't believe in real time with his flappy mouth.

RH:

With his mouth. Yeah, no, I think that's like such a good point, Amelia, and there's something to like... It's reminding me of something we criticize in the Liberal Legal Academy, with liberal law professors. That like liberal law professors debate originalism and, like stupid-

AB:

They're taking the bait. The libs are always taking the bait-

RH:

Right.

AB:

They can't not do it.

RH:

Right, and the Democratic party has done that on abortion rhetoric as well. They have taken the bait, they have completely accepted the world that Republicans built right rhetorically, that like abortion is murder, and therefore Democrats react by being like, oh, we're walking on eggshells when we talk about abortion. Right? And it's like you don't have to accept any of this. You don't have to accept the reality that they are trying to impose on you, right?

AB:

Yeah. And as soon as you have the conversation on their terms, you've lost.

RH:

Exactly a hundred thousand percent. And yeah, it's a big failure of the Democratic party, this rhetoric. Right? The feeling of, you know, the lack of empowerment. And so it's a complete disempowerment culture around controlling rhetoric, right?

AB:

Yeah, absolutely. And I think that this is you know, it's important to remember that like stigma, you know, and like normalizing abortion, talking about our abortions, saying shit like I fucking loved my abortion, and I would do it again. That shit isn't just fun in a like yes, Queen kind of way.

RH:

Right.

AB:

It's really important.

RH:

Right.

AB:

And it impacts the way that laws do or don't...like you know what I mean? Like, we can't...The idea that we would ever have like just legislation, or like full abortion access for all in a world where we're all just like not talking about our lives in real honest ways, and being like I am sorry that I did a kind of murder, but I needed to go to college, or whatever like what the fuck are you talking about like?

RH:

Right. It's meaningful to say like I did something. I would do it again. I did it in my own power. Right? I don't care what other people think about it. Right? I don't care.

AB:

Autonomy is good. Autonomy is good for actualizing your potential for it is good.

RH:

I made a moral decision, and I sleep well at night. Right?

AB:

Yeah, absolutely. Yeah. and which no, like, as it turns out, like the vast, vast, vast majority of people who have abortions feel really deeply okay about them. If not, it's... and like, you know, I...for what it's worth, I would still be ready to die for this shit if everybody hated their abortions. But, as it turns out, like 95% of people are like 10 out of 10 would abort again. So like.

RH:

This is a huge relief. Thank you.

AB:

So I want to talk to you about the first Amendment, because we think all the time about like

we, you know, as an organization or if I'm thinking as an activist, personally, we think about how much organizing in the future is going to come down to our freedom to share information.

RH:

Yeah.

AB:

And one question that we got when we were asking for pre questions for you was, could the government ban the Plan C website. And I would love to hear your take about that. And like more broadly. Do you see a world where activists/ people could be criminalized for sharing information, and what would need to happen legally for that to be the world we live in?

RH:

Yeah, yeah. So it's complicated. But it's also kind of like, not complicated. Like, is there a world where the Plan C website could be outlawed? I think there's a world where it could be outlawed, and I think there are different ways legally that that could happen. The big one being that if abortion is outlawed and things like facilitating abortion-

AB:

You mean like a Federal ban level?

RH:

Right. If there's a Federal ban, then what flows from the legal argument that flows then from the existence of the Plan C website would be that this website is teaching people or telling people to break the law which you can't do. Right? And so legally, that's sort of the grounds that could happen. I don't think that we have to live in the worst world possible. Right?

Because of our power in...because of our power in saying, I don't fucking care what the law is. Actually, I'm doing what I'm doing anyway. And that actually being like the most powerful thing, and not thinking about these things as legal wins right? Or that, like our victories in social justice or in reproductive justice, come from legal victories. Right?

It's never been the thing that has gotten us justice. A case at the Supreme Court has never been what justice actually means. Right? So yeah, I don't think we have to live in the worst world possible, though, I do think, yeah, there's a world where the Plan C website legally is attacked. Right? I think about this like information stuff or like the criminalization of disseminating information. I think there is a good analog. By good, I mean, like the quality, not good, like yay which is, there is already criminalization of speech. When the government says that you are giving material support to terrorist organizations.

Now, I know that's really scary. But when you take a step back and realize that the government is completely arbitrary, racist, and discriminatory in deciding legally what a designated terrorist organization is, and that there are organizations in the US, nonprofits and the like that, in the past, have supported certain of these organizations in building them up legally to do diplomacy,

to do things that are legal, to turn into more like, you know, legal political bodies, right? And the Federal Government in the US, and like green lit by the US Supreme Court in cases that are about these MST(material support for terrorism laws) has said, that's not first amendment behavior. You don't have a right to do that. Right? You don't have a right to protect, to support, and to teach any of that stuff. Right? And it is like the sharing of information. It's not just like they don't say that material support is only giving money to a terrorist organization. Right? So I know that's a very different like legal situation-

AB:

I definitely understand the parallel, for sure.

RH:

Right. Right, right. These are organizations that are giving information. In fact, in ways that they argue is like actually improving the world, and trying to bring, you know, sort of let's say, like alienated groups into diplomatic relations and that kind of thing. That they're giving information. They do like trainings and stuff. And that is what's criminalized under these laws. And the Supreme Court says the first Amendment doesn't protect you, criminal laws about this are totally fine. And so yeah, that's that's already out there. And you know the way, like I think about that is like, it's actually not...The Supreme Court actually doesn't treat that as like a first amendment protection. How they're thinking about it is like in a war on terror context, and that, you know, America does this in the world, or like, has this role, and America should be supported and doing all of that bullshit,

And so I think that's like that... bringing it back to abortion and like disseminating information about abortion, making sure people know good and factual and correct information, and have access to the information needed to take care of themselves and make the decisions that they wanna make and act as autonomous beings with dignity. You know, it's not actually about... it won't actually be about the first amendment and what the first amendment protects. It's gonna be about how judges, justices think and feel about abortion, right?

AB:

Yeah. And I mean, if fetuses become people, then we're all fucking terrorists.

RH:

Yeah. Right, right! Exactly.

AB:

Like literally that, you know?

RH:

Right, yeah.

AB:

So everything that you said was just so smart. And I think that it's like a perfect lead into talking about this 'laws aren't real' idea which is on this fun shirt that we made.

RH:

I have to say. I have to say that when I got arrested two months ago. I shared this with Amelia. I was wearing that shirt, and so I had a long sleeve, almost like a sweatshirt over it. So when I was arrested, nobody saw that shirt, but when I got out of jail I was like, what's up?

AB:

Reliably, lawyers go the hardest for this shirt, like everything-

RH:

Incredible.

AB:

Yeah, I mean lawyers, lawyers love this shit. And I love... So there's this incredible episode of the podcast that is about Rhiannon getting arrested, Rhiannon, who is Palestinian, being arrested at a pro-Palestine demonstration at the University of Texas in Austin, and getting taken to jail, and it is more broadly about the first amendment, and I encourage everyone who is listening to this, or watching this to listen to it. But you guys riff about this phrase, laws aren't real, in ways that I just thought it was... I thought it went in some really interesting directions, like one of which is, you know, sort of obvious that, like this idea that laws reflect reality and existing power structures more than they are creating or discovering some objective truth within documents, or whatever.

RH:

Right, right.

AB:

They're reflecting reality, and that to me feels like a compelling reason, strategically, to not comply with abortion bans. One might argue that the Supreme Court never would have taken to the Roe case if illegal abortion wasn't already so prevalent that they just felt like they looked stupid because the law was not reflecting the reality. And so, like, I wanna hear what you think about that and and like, if you can think of other examples where SCOTUS made a decision because the law of the land was just simply not reflecting our lived, shared reality.

RH:

Yeah, yeah, I mean, yeah, to the second point. You know, I think people have written about the Supreme Court as being like late, actually. You know what we think of as the social justice victories that we've gotten at the Supreme Court, so say, like Obergefell, right, which obviously said that you know same sex marriage should be recognized. You know it's unconstitutional to ban same sex marriage, you know, that was like 2015? 2016? Like it was late, right, like society and popular will of the vast majority of the people was like already way past this kind of deep

bigotry. Right? And so that's another example where the Supreme court kind of finally said something that just affirmed where most people were at already, you know. And so that's another, and institutionally throughout history, the Supreme Court is late on all of these things. Right?

AB:

Yeah.

RH:

Right? They're Not actually the vanguard of like our-

AB:

No!

RH:

No, yeah.

AB:

No like laws, and especially like Supreme Court decisions, are like the conclusion of social change that has been like pushed forward by like activists and artists and organizers, and just like regular ask people being like, I don't give a fuck if you're gay.

RH:

Right, right, exactly.

AB:

They're like we allow you now to be gay, or whatever.

RH:

Yeah, yeah, yeah, exactly.

AB:

And, too, I think of parallels. I mean, there's a lot of parallel people always wanna sort of compare Obergefell and gay marriage to abortion stuff which I don't think is...I think it's very apples and oranges. But I do think it's important to remember that nobody was fighting for gay marriage when everybody was in the closet. And this is yet another reason for us to say, fuck, yeah, I had an abortion. 10/10 would abort again, like a reason why it matters.

Rhiannon Hamam (she/her):

A hundred percent. A hundred percent. And I think the point, too, about like, you know, the Supreme Court sort of course correcting so that it reflects reality on the ground. I think there's a certain inversion of that that like republican justices want to do.

Take for example, Dobbs, where it's imposing their reality. Right? It's like they're course correcting and doing this imposition of their very dark reality, their fascist reality and saying and lying to us and saying that this actually reflects reality on the ground, or what people want or states' right or or whatever that is and then, just to the point about like laws aren't real. It's such a good illustration.

We get a lot of questions. I get a lot of questions like, you know what... What is the law right now? How can I be protected? Right? If I'm at a protest or if I'm doing civil disobedience, you know, like, sort of purposely violating a law because I'm intentionally doing civil disobedience. And you know, the cops come and they're gonna arrest me like, what can I say to be like, no, I'm actually in the right here, and you arresting me would be illegal, and I have first amendment rights, and all of that stuff. Like what we mean by 'laws aren't real' is that like in the moment when a cop is arresting you, it actually doesn't fucking matter what the law is because the cops, the law enforcement and surveillance regimes, you know, sort of anti reproductive justice laws that are aimed at..you know, whether that's like these bounty hunter laws...none of that is actually designed to quote unquote, follow the law. Right? All of that is actually just designed to impose, you know, arbitrary hierarchy, impose a a kind of ordered regime where you know the powerful or maintain power, and it's fucked the rest of us, you know. So like-

AB:

Yeah.

RH:

We joke on the podcast like, when a cop is coming to arrest you, even if it's for an illegal reason, pulling out your pocket constitution will not help, you know? You're getting arrested, right? Like the repression is the repression, the cruelty, that's the point actually of the law and laws that quote, unquote, protect you are just sort of this facade, really, and so that's what we mean by laws aren't real, and that, I think is exactly what you're saying leads to the conclusion that, like we should be thinking about things outside of the law. Right?

AB:

Absolutely, and not getting so sucked into like granular legalistic interpretation that we end up self-policing and just enforcing this shit for them which, by the way, the other reason, like...you know, you can just think of laws as it's not like: Okay. They did the law. Now, no one can have an abortion again. The law is as real as people comply with it, and it creates a framework for potential criminalization which will then be applied erratically whenever the fuck they want to to fuck with the people that they want to fuck with.

So you know, I think, our movement spends tons of times, just like on our heels trying to, you know, understand the minutia of like some bullshit like SB8, when nobody fucking catches a suit for a year and a half, and meanwhile all the abortion clinics closed. And that's a terrible strategy.

We here at SYA want to talk about how to help each other, how to help each other, stay safe, how to help each other have abortions, no matter what the state is telling you what you can or

cannot do with your body. And an analogy, I think, about a lot with laws and abortion stuff is this: it's like the law does not determine what is possible in the same way that a speed limit sign does not tell you how fast your car can go.

RH:

Right.

AB:

And if you are in a hurry or an emergency, you're gonna speed. You're gonna fly. You're gonna drive as fast as you fucking need to drive. You're more likely to get fucked with if you're Black, if you're in a Hoopty, if you're in the wrong neighborhood. But ultimately, the sign is a sign. It's a suggestion. The thing that your car does is totally separate from that. And what I want us to do is get really smart about doing the right thing, the moral thing, learning to help each other and protect each other, and to the best of our ability, understanding what our supposed rights are in order to adequately describe risk to the people who we are helping and to our communities. Because I think that it's like a consent issue. And it's like people just need to know...people need to know if they are breaking a law so that they can, you know, take certain precautions.

But ultimately I want to talk about the precautions. I want to talk about the workarounds. I want to talk about how to circumvent abortion bans, or how to break them, how to help others break them, how to aid and abet abortion. I don't really fucking want to spend my time like in 20 hours of zooms, talking about what the law might say.

RH:

Yeah. Well, now, you can't do this. And now you can't do this. And now you can't do this right. It's not helpful.

AB:

Right? Right? And also yes, we can, and we will.

RH:

Right! What if I did? Yeah, yeah.

AB:

Yeah.

RH:

I think about this. Yeah, there's, you know, I think about this just because of my background as a public defender. I have so much...like defending people on criminal charges when they're when they're accused of crimes. And you know, in this exactly what you're talking about this community safety approach where we keep us safe. We're not we're not deriving safety or thinking that we're protected by anybody else except ourselves and our community.

I have found that the most empowering 'know your rights' trainings and that kind of thing you know around the police around arrest, around when you're charged with a crime, around when you go to jail. I have found that, like the most empowering, 'know your rights' training in that context are ones exactly what you're talking about, where people are able to make their own risk assessment. Right? It's not about saying you can't do this. You can't do this. You can't do this. It's actually about saying like, here's how the cops are gonna operate. Here's how we're gonna demystify this process for you, so that you know what will happen to your body when you're arrested and you're taken to Harris County Jail, Dallas County Jail. What process do you go through? What's gonna happen? When can you assert this? When can't you? When can you assert something and they're gonna laugh at you. You demystify that process, for people talk about people's risks so that everybody makes an empowered decision. So that you know more about what the consequences can be. How can I operate in a disobedient way and have an idea about what's to come? And have an idea about how to protect myself in my community, even as I take on that process. Right?

And so I think, like, that's exactly the same. We have these ideas already, you know, like I said on the criminal side, and the police, I would say in a lot of left organizing spaces. And I think that can be like, really, really extended to other...let's say justice acquiring, justice building spaces, too, you know. Yeah, our abortion training cannot be this very narrow legalistic framework, where we're saying this is what the law says right now, and what the law says right now is, you cannot do XYZ. Actually A to Z things, or you're gonna get sued, or you're gonna go to jail right? No like, what does that actually mean for me? What does that actually mean for my body? Right? I wanna know what that looks like. So that I know, actually, when I'm saying no, I'm gonna do what I'm gonna do. Then I know what the risks are, and I do it, you know full well, with my community behind me and around me. You know.

AB:

I wanna, okay, that was so beautiful...first of all, I just have to say, like. There's a really amazing episode about Rhiannon stepping back from her work as a public defender in Texas in order to stay alive that I really would love like every activist in my life to listen to. I thought it was just a gift. And I'm really...I'm just really glad that you're here, you know, and I don't ever want to be like thank you for doing this work. Please never stop. I want everyone to stop whenever the fuck they need to, and it like is a really really beautiful and very vulnerable and raw exploration of your emotional process and the difficulty around that. But I think, might give other people permission, you know, in a way that might save them so like go listen to that. It's also about her co-host, Peter, getting fired from a fancy law firm for having, like a naughty podcast which I like, which is just weird. I don't know, rich people are crazy.

RH:

Yeah. We had two like, you lost your job situations, but very different personal context. Right?

AB:

A beautiful, beautiful episode. And just like, you know, I fucking hate the question that's like, what's your self-care routine in order to like be in the trenches forever. I'm like...I'll never ask someone that, and I don't want them to be-

RH:

Right, yeah.

AB:

Unless they want to be, and are happy and healthy and okay there, and choosing it.

RH:

You know, I really think of social justice work. I really do think that, like I am responsible to myself, my people, and my community, and continuing to engage even when it's hard. But I think a process that I went through, and I'm so glad that I went through the process, and I think that it expanded my own sort of imagination and vision, for, like what social justice work could look like. You know, I realized as a public defender that I had tied my identity, not just to being a member of my community and taking care of my community and working for social justice, but that my identity was that I was a public defender, and that's what I think like really fucked me, even though I was so honored every day to stand beside and fight for my clients, but I had linked that in my head to like this is my contribution to taking care of my community, to taking care, you know, to trying to fight for social justice. And so now I couldn't have seen it, you know, when I was in it. But you know now that I work with law students, and now that I can work on so many different things.

And you know I feel rewarded for doing those things, too. And yeah, so it's just that, like my duty and responsibility remains. And it's just not that I had, like pigeon hole myself into just doing the one thing, you know?

AB:

Absolutely and like doing something that's like so fucking hardcore like so... is just so intense. And like, you know, abortion work is fucking, intense, and it's not...hat's not going to change anytime soon. And, you know, I think it's like...community responsibility, thinking about responsibility to community as including you living and you feeling good and feeling joyful and having a life and, you know, and an identity outside of what is ultimately a can be just a grueling exposure to trauma.

RH:

Yeah.

AB:

All of that is you being in service to community like you thriving is a service to your fucking community, you know?

RH:

Absolutely a hundred percent. Yeah. And that, like, it's not just like my service to my community is not just a job title, right? Just what I do from 9 to 5, you know? Yeah, yeah, it's really powerful. And you know, like, I think now about my position, I work at the law school at UT. And you know now in in this new era of what I'm experiencing, as like, let's say broadly, social justice issues right during an ongoing genocide like I would have never guessed that from my new position, like, you know that, as a Palestinian, as a lawyer, as an alumni of this university, and now an employee of this university, as somebody who was arrested during the protest that now I'm able to support students going through these crazy disciplinary processes and and all of that stuff. And you know I wouldn't be able to do that if I was still a public defender, you know, in that grind.

AB:

It sounds very....It sounds like you're a catalyst for a lot of empowerment which, like sounds, you know, that is like so...it's like public defenders. It's like that is obviously the goal. But what you're actually experiencing is just attempting to protect people from the state in a way that works out like one every five million times. And you know I love this energy for you. I love thinking about you just like arming the youth with the knowledge that laws aren't real.

RH:

Yeah, exactly. And it's wonderful to work with young people who aren't, you know, jaded by that grind already, you know. And they really don't give a fuck.

AB:

Yeah. And they like, really don't give a fuck, you know, like-

RH:

They're like the world is our oyster! Yeah, it's amazing. Yeah, it's great.

AB:

Okay, so this has been an unbelievable delay, and I guess we can end on a kind of fun question, but that I also am serious about which is like, okay. The Supreme Court is a hijacked, undemocratic institution. It is captured... It is an enemy of the people. It is a machine that we can't really touch with democratic levers, right?

We also know, though, that these people are like such fucking Napoleonic like psychopath. They're like legacy obsessed, and they hate it when people talk shit about them. And I literally want to know, like I have a vested interest in this, I know what I want your answer to be. But I'm like: how do we affect? How do we pressure them...Is there a way to pressure them? Does talking shit about them matter? Cause I want to feel like it does.

RH:

Yeah, talking shit about them absolutely matters right? These are the thing...the thing that you have to remember, I think, when you step back from the idea that they're these ivory towers that, like the nine justices on the Supreme Court, are somehow like the smartest lawyers in the country, or something which they're not.

AB:

Irreplaceable God, like-

RH:

Right right when you take a step back from that, and you realize that Sam Alito watches Fox News.

AB:

Yeah.

Rhiannon Hamam (she/her):

Right? Like they care about... they care about how we're talking about them, because they're fascists, right?

AB:

Super just deeply narcissistic.

RH:

Right, I mean, look at the flag thing right? Like-

AB:

The fucking flag thing-

RH:

Right, like Sam Alito's wife is fighting with neighbors over political flags. Right? They care a lot about what people say about them. They care a lot, and I think talking shit not only does hurt them, I think, which is great. I think talking shit about them also sort of...is also a way of disseminating information in a real way to real people, to non lawyers. We're not talking about things in a way that lawyers talk about things right? We're just talking about things like real people and saying, yeah, that man is a psycho. That man's a fascist. You don't have to pay attention to what he's writing about. You don't have to take him at his word when he says this is the law and this is what the constitution means. Right?

So I think talking is actually really important and has and has influence, or like has impact in in multiple ways more ways than one, and then in terms of how to like exert power over them, or like, maybe change the Supreme Court, or whatever you know, it's a it's a long...you just have to remember. It's a long political project like the Republicans worked on it for decades. You know what I mean.

AB:

I mean, like we arguably haven't begun. It's like Democrats aren't talking about packing the court, they're not talking about... It's like we arguably will take decades before these very basic ideas that are like the only possibility for structural court reform begin to be mainstreamed.

RH:

Yeah. But until then we're gonna do what we want right? It does not matter what the Supreme Court says.

AB:

You heard it here. You heard it here first!

Well, Rhiannon. We just... we love you so much, and are like, just like truly honored that you would spend this time with us.

RH:

Thank you for having me. Yeah, this was great.

AB:

Yeah. Everybody, we will send out emails with links to the various references, the various episodes that were referenced during this convo and really check out the whole podcast. It's like...it's really, really good. It's also like really funny, but not like a podcast like 'check out our personalities' way.

RH:

Right! Yeah, we're just shooting the shit like-

AB:

You're shooting the shit. You're smart as fuck. The analysis is super on point. It doesn't feel like doctrinaire. It feels like you said. It's filling a very, very new, necessary like...coverage of the Supreme Court has been really, really lacking in, just like, no, this is bad, they're bad, they're not. This isn't good faith. This is off the fucking rails, and like even the most like, you know, just most liberal court analysis is so fucking mid and like not saying anything.

And yeah, I mean understanding the conservative legal project and how they used Roe is key to understanding, like the power structures that are facing us at any given level, whether we're talking about like trans rights, or like obliterating the fucking environment or bump stocks, or whatever. And yeah.

So, Rhiannon, we stan you so fucking hard. We are just so grateful that you hung out with us. And everybody, thank you for coming, and we'll send you all the links.

RH:

Thank you so much. Big hearts, big hugs. Thanks everybody.

AB:

Thanks, Rhiannon. Okay, bye!

RH:

Bye!