

APRIL L. CHERRY
PROFESSOR OF LAW

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CURRENT ACADEMIC APPOINTMENT

Cleveland-Marshall College of Law, Cleveland State University, Cleveland, OH

Fall 2009 – Present: Professor of Law

Fall 1999 – Spring 2008: Associate Professor of Law

Principal Subjects: Property Law; Estates and Trusts; Family Law; Women and the Law; Reproductive Rights and Technologies (Health Law Seminar)

Occasional Subjects: Children, Parents, and the State (Seminar); Women and the Criminal Justice System (Seminar, Co-taught)

Selected Service: Member of Law School Dean Search Committee; Faculty Appointments Committee; Chair, Promotion and Tenure Subcommittee – 2012-2013; Member Promotion and Tenure Subcommittees; Admissions Committee - 2000-2005, 2008-2009, 2013-2014; Curriculum Committee - 1999-2000, 2001–2002; Faculty Affairs Committee; Honor Code Committee – 2003-2004; 2012-2013.

University Equal Opportunity Hearing Panel, Faculty Senate, University Minority Affairs Committee, University President's Advisory Committee on Affirmative Action.

Faculty Advisor (former) to Black Law Student Association (BLSA) and National Lawyers' Guild.

EDUCATION

J.D. – Yale Law School, New Haven, Connecticut

Yale Law Journal, Senior Editor

Graduate Certificate – Advanced Study in Bioethics, Cleveland State University, Cleveland, Ohio
Department of Philosophy; 4.0 GPA (Course Work Included: Moral Reasoning & Bioethics; Clinical Issues in Bioethics; Ethics of Human Reproduction; and Advanced Research – Clinical Issues Reproductive Ethics)

A.B. – Vassar College, Poughkeepsie, New York

Awarded Highest Honors

Instituto Internacional, Madrid, Spain. (Vassar Program)

OTHER ACADEMIC APPOINTMENTS AND PROFESSIONAL EXPERIENCE

Assistant Professor of Law, Florida State University College of Law. Tallahassee, Florida.

July 1992 - May 1999. Subjects Taught: Property, Women and the Law, Reproductive Rights and Technologies (Seminar), The Legal Regulation of Motherhood (Seminar); Poverty Law

Consultant, Florida Coalition Against Domestic Violence, General Counsel's Office, Tallahassee, Florida.
July 1998 - March 1999. (Monitoring contracts and programs for FCADV Legal Clearinghouse/Legal Assistance Project.)

Law Clerk, Chief Judge Judith Rogers, District of Columbia Court of Appeals. August 1991 - July 1992. (Judge Rogers currently sits on the United States Court of Appeals for the District of Columbia Circuit.)

Attorney, Paul, Hastings, Janofsky & Walker, Washington, D.C. September 1990 - August 1991.

Morgan Guaranty Public Interest Fellow, Advocates for Children, Inc., Long Island City, New York. June 1988 - August 1988.

PUBLICATIONS

Shifting Our Focus from Retribution to Social Justice: An Alternative Vision for the Treatment of Pregnant Women who Harm their Fetuses, 28 J. L. & HEALTH 7 (2015). This article argues that a public health response to the behaviors of pregnant women that potentially harm their fetuses is superior, in three ways, to our current preference for punishment. First, the public health's pragmatic emphasis on harm prevention properly focuses attention the problem of poor health among poor women and women of color who are of child bearing age. Second, public health's pragmatic emphasis on harm reduction appropriately focuses attention the problem of poor fetal and neonatal health. Finally, by its emphasis on social justice, the public health model encourages policy makers to focus on ensuring that pregnant women have access to a sufficient number of meaningful options.

The Rise of the Reproductive Brothel in the Global Economy: Some Thoughts on Reproductive Tourism, Autonomy, and Justice, 17 PA. J. L. & SOC. CHANGE 257- 289 (2014). This article explores some of the ethical issues raised by the rise of reproductive tourism including the development of the "reproductive brothel," a place where women are gathered together in confined areas and their reproductive capacities sold to men as commodities. I consider two ethical responses to the development of the practice of global commercial surrogacy; the value of autonomy (both as choice and as dignity), and the value of justice. After consideration and critique of these moral values, I move briefly to a consideration of the appropriate legal response; regulation or prohibition. While I believe that neither of these solutions perfectly fits with the values of autonomy as choice, autonomy as dignity, or justice, I nevertheless conclude that given the context in which commercial gestational surrogacy occurs, prohibition is the wiser course. I argue that regulation under current conditions of globalization (including commodification and degradation) simply serves to reinforce gender, race, and class hierarchies; diminishing the authentic choices and dignity of the individual, as well as weakening access to reproductive justice, rather than enhancing it.

The Detention, Confinement, and Incarceration of Pregnant Women for the Purported Benefit of Fetal Health, 16 COLUM. J. GENDER & L. 147-97 (2007). Incarceration and civil commitment and threats thereof are sometimes used by judges to control the behavior of pregnant women who come before them on charges unrelated to their pregnancies. This project looks at these preventive detention cases in light of the undue burden standard articulated by the Supreme Court, as well as other conceptions of privacy, in order to determine whether confinement or detention in this context constitutes a violation of the privacy rights or liberty interests of pregnant women.

Roe's Legacy: The Non-Consensual Medical Treatment of Pregnant Women and Implications for Female Citizenship, 6 U. PA. J. CONST. L. 723-751 (2004). In this essay, I demonstrate how I've come to the conclusion that, part and parcel of *Roe's* legacy, is that the compelling state interest language used by the Court in *Roe* has been used to constrain and derogate women's citizenship.

The Free Exercise Rights of Pregnant Women Who Refuse Medical Treatment, 69 TENN. L. REV. 563-622 (2002). This article explores the constitutional status of pregnant women's religiously motivated refusals of medical treatment for the benefit of their fetuses in the face of judicial compulsion. I conclude that even under the current Supreme Court's restrictive free exercise jurisprudence, pregnant women's right to refuse medical treatment on religious grounds is protected by the First Amendment. Therefore, court orders compelling such treatment are constitutionally impermissible.

Nurturing in the Service of White Culture: Racial Subordination, Gestational Surrogacy, and the Ideology of Motherhood, 10 TEXAS J. OF WOMEN & THE LAW 83-128 (2001) (lead article). This article examines the ways in which the social devaluation of African-American mothers has led to the reproductive subordination of Black women in the context of gestational surrogacy.

Welfare Reform and the Use of State Power in the Prostitution of Poor Women, 48 CLEVELAND STATE L. REV. 67-77 (2000) (symposium issue). This essay argues that the time limitations of the "new" welfare reform regime, the under education and under employment of poor women, coupled with the popularity of describing prostitution as "work" will institutionalize the State's role as the procurer of women for prostitution.

Maternal-Fetal Conflicts, The Social Construction of Maternal Deviance, and Some Thoughts About Love and Justice, 8 TEXAS J. OF WOMEN & THE LAW 245-259 (1999). This essay examines the way in which social deviance theory is used to describe the cause of maternal-fetal conflicts and used as an excuse for judicial control over women described as being in conflict with their fetuses. Ultimately, this essay asks how the law can facilitate justice for women and their fetuses under difficult, possibly fatal medical circumstances.

Choosing Substance Justice: A Discussion of "Choice," "Rights" and the New Reproductive Technologies, 11 WISC. WOMEN'S L.J. 431-441 (1997). This article addresses the tension between rights and substantive justice in the dialogue concerning new and emerging reproductive technologies.

Social Contract Theory, Welfare Reform, Race and the Male Sex-Right, 75 OR. L. REV. 1037-1094 (1996). This article analyzes traditional and contemporary social contract theory and its emphasis on the sexual subordination of women, as structurally necessary for the survival of the liberal state. The analysis is continued in a discussion of the "new" social contract of welfare reform, which expands the traditional male sex-right to the state, allowing the state to directly proscribe poor women's sexual and reproductive behavior in return for bare subsistence.

A Feminist Understanding of Sex-Selective Abortion: Solely a Matter of Choice? 10 WISC. WOMEN'S L.J. 161-223 (1995). This article analyzes the problem of the selective abortion of female fetuses in light of philosophical, moral and legal values regarding freedom of choice. It further analyzes the limits of choice as a value when deployed to further denigrate a socially and politically degraded insular group.

WORKS IN PROGRESS

- *Race, Infertility, and Reproductive Justice*
- *Infertility, Adoption, Alternative Reproduction, and Contemporary Legal Theory*

PRESENTATIONS

- “Race, Infertility, and Reproductive Justice,” The Rhetoric of Reproduction Conference. Case Western Reserve University School of Law. April 17, 2015.
- “Self-Harm, Fetal-Harm and the Ideology of the Good Mother,” Journal of Law and Health Symposium on Reproductive Rights: Life, Liberty, and the Pursuit of Policy, Cleveland-Marshall College of Law, March 2014.
- “The Rise of the Reproductive Brothel in the Global Economy,” Workshop: Sex and Reproduction – From Privacy and Choice to Resilience and Opportunity? Feminist Legal Theory Project, Emory University, November 2013.
- “Reproductive Consumerism and Class,” The Southeastern Association of Law School 2013 Conference. Discussion Group: The Intersection of Reproductive Rights and Class. August 2013.
- “The Ethics of Reproductive Consumerism,” Social Justice Feminism Conference, University of Cincinnati College of Law, October 2012.
- “Privacy and Punishment: The Role of the State in the Reproductive Lives of American Women,” Conference Co-sponsored by American University Journal of Gender, Social Policy, and Law, March 2003.
- “Roe’s Legacy: The Non-Consensual Medical Treatment of Pregnant Women and Implications for Female Citizenship,” The Legacy of Roe, University of Pennsylvania Constitutional Law Journal, February 2003.
- “The Prostitution of Poor Women in Post Welfare Cultures,” Strategic Thinking for the Millennium: Women in Law. University of Westminster School of Law, June 2000.
- “Race, Gestational Surrogacy and the Ideology of Motherhood,” Cleveland-Marshall College of Law Faculty Speaker Series. March 2000.
- “Welfare Reform and State Supported Prostitution,” Re-Orienting Law and Sexuality Conference. Cleveland-Marshall College of Law, October 1999.
- “Maternal-Fetal Conflicts: Exit Strategies for the Next Millennium,” Approaching the Millennium: Emerging Issues in Bioethics and Information Technology. Conference sponsored by the Texas Journal of Women and the Law. University of Texas, March 1999.
- “Legal and Cultural Attitudes Toward Black Motherhood: Nurturing in the Service of White Culture,” Feminism and Legal Theory Workshop: Discrimination and Inequality. Columbia University Law School, November 1998.
- “Model Programs,” Conference on Domestic Violence and Law School Education in Florida. Sponsored by the Governor's Task Force on Domestic Violence and Florida State University College of Law. September 1997.
- “Teaching, Scholarship, and Motherhood,” Women in Practice Speaker Series: Launching An Academic Career. Yale Law School, March 1997.
- “The Ideology of Motherhood: Racial Subordination and Reproductive Technologies,” National Women Law

Students' Association Annual Conference. Whittier University School of Law, February 1997.

“Choice, 'Rights' and New Reproductive Technologies: The Future of Feminist Legal Theory,” National Women Law Students' Association Annual Conference. University of Wisconsin School of Law, March 1996.

“Reproductive Laws for the 1990's: Is Choice What We Want?” Tallahassee Chapter of the National Council of Jewish Women, March 1995 (Primary Speaker at Annual Meeting).

“The Compelled Medical Treatment of Pregnant Women,” Tallahassee Women Lawyer's Association, April 1994.

PROFESSIONAL AND COMMUNITY SERVICE

Florida Coalition Against Domestic Violence, Consultant to General Counsel, Tallahassee, Florida. July 1998 - March 1999.

Refuge House (local domestic violence and rape crisis center), Board of Directors, Tallahassee, Florida. September 1997 - May 1999.

The Patricia Vance Foundation (non-profit foundation organized to provide assistance to indigent parents who are parties to juvenile dependency proceedings), Board of Directors, Tallahassee, Florida. March 1997 - May 1999.

Planned Parenthood of North Central Florida, Inc., Big Bend Advisory Group, Tallahassee, Florida. February 1994 - November 1994.