

CONSTITUTIONAL CONTAGION

Constitutional law has helped make Americans unhealthy. Drawing from law, history, political theory, and public health research, *Constitutional Contagion* explores the history of public health laws, the nature of liberty and individual rights, and the forces that make a nation more or less vulnerable to contagion. In this groundbreaking work, Wendy Parmet documents how the Supreme Court departed from past practice to stymie efforts to mitigate the COVID-19 pandemic and demonstrates how pre-pandemic court decisions helped to shatter the social contract, weaken democracy, and perpetuate the inequities that made the United States especially vulnerable when COVID-19 struck. Looking at judicial decisions from an earlier era, Parmet argues that the Constitution does not compel the stark individualism and disregard of public health that is evident in contemporary constitutional law decisions. Parmet shows us why, if we are to be a healthy nation, constitutional law must change.

Wendy E. Parmet is George J. and Kathleen Waters Matthews University Distinguished Professor of Law at Northeastern University. Her books include *The Health of Newcomers: Immigration, Health Policy and the Case for Global Solidarity* with Patricia Illingworth.

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Constitutional Contagion

COVID, THE COURTS, AND PUBLIC HEALTH

Wendy E. Parmet

Northeastern University



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For Anna, Dan, and Ron

Real liberty for all could not exist under the operation of a principle which recognizes the right of each individual person to use his own, whether in respect of his person or his property, regardless of the injury that may be done to others.

Jacobson v. Massachusetts (1905)

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ABBREVIATIONS

ACA	Affordable Care Act of 2010
AIAN	American Indian and Alaska Native
ARPA	American Rescue Plan Act of 2021
BCRA	Bipartisan Campaign Reform Act of 2002
BIPOC	Black, Indigenous, and people of color
CDC	Centers for Disease Control and Prevention
CDOH	Commercial determinants of health
CMS	Centers for Medicare and Medicaid Services
CPC	Crisis pregnancy center
DHS	Department of Homeland Security
EPA	Environmental Protection Agency
ETS	Emergency temporary standard
EUA	Emergency use authorization
FDA	Food and Drug Administration
FEC	Federal Election Commission
FECA	Federal Election Campaign Act of 1971
INA	Immigration and Nationality Act of 1952
MMR	Measles, mumps, and rubella (vaccine)
<i>NFIB</i>	<i>National Federation of Independent Businesses v. Department of Labor</i> (2022)
NIH	National Institutes of Health
OECD	Organisation for Economic Co-operation and Development
OSH	Occupational Safety and Health Act of 1970
OSHA	Occupational Safety and Health Administration
PAC	Political action committee

PPE	Personal protective equipment
PREP	Public Readiness and Emergency Preparedness Act of 2005
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act of 1996
RCD	<i>Roman Catholic Diocese of Brooklyn v. Cuomo</i> (2020)
RFRA	Religious Freedom Restoration Act of 1993
SARS-CoV-2	Severe acute respiratory syndrome coronavirus 2
SDOH	Social determinants of health
SNAP	Supplemental Nutrition Assistance Program
VRA	Voting Rights Act of 1965
WHO	World Health Organization