ABORTION IN THE USA

THE HUMAN RIGHTS CRISIS IN THE AFTERMATH OF DOBBS

AMNESTY INTERNATIONAL

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Cover photo: *Activists protest outside the US Supreme Court in support of abortion rights. (Amnesty International)*

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EXECUTIVE SUMMARY

SHEILA, MISSISSIPPI **Name changed for privacy purposes*

Sheila* got pregnant when her hormonal birth control implant expired, and she could not afford a new one. She tried to get an abortion from the Jackson Women's Health Organization in Mississippi, the month after *Dobbs* was decided, but the clinic had been forced to close. Sheila could not afford to travel out of state for an abortion. She later gave birth and brought her baby home, knowing she had no help with paying for childcare and that there was no way she could go back to work. [1]

For almost 50 years, the United States Supreme Court repeatedly affirmed that the US Constitution protects the right to access abortion. However, on 24 June 2022, in *Dobbs v. Jackson Women's Health Organization,* the Supreme Court ruled that there is no such federal constitutional right, leaving the question of whether and how to regulate abortion to individual states.

Since the *Dobbs* decision, people of reproductive age across the country have faced ongoing, confusing changes to their ability to access abortion care. State abortion law and policy reforms have varied widely, with some states completely banning abortion, some protecting abortion care, and many falling somewhere in between.

This report shares the experiences of individuals impacted by abortion bans and restrictions on access to abortion across the United States. It details the severe risks to women's health and lives that result, including the often-devastating impacts of lack of abortion access, documents the human rights impacted by the shifting legal, policy and practice landscape, and demands that urgent action be taken to address this crisis.

This report is based on in-depth interviews with individuals, their families, activists, advocates, public health experts, and health workers in key states that ban abortion – as well as with federal agency representatives and healthcare providers across the USA. It also reviews available medical and public health literature, news articles, and a 50-state comprehensive landscape analysis of abortion cases in litigation and media reports, with a focus on disparities in healthcare provision and outcomes and preventable deaths and complications.

[1] Laura Clawson, "Mississippi's Culture Of Cruelty Shows Itself Again And Again Post-Dobbs," Daily Kos, 20 August 2023, https://www.dailykos.com/Stories/2023/8/20/2187206/-Mississippi-S-Culture-Of-Cruelty-Shows-Itself-Again-And-Again-Post-Dobbs

SCOPE OF BANS AND RESTRICTIONS

KIM, MISSISSIPPI **Name changed for privacy purposes*

Kim*, a 12-year-old Black girl, had been outside of the house making TikTok's when a man grabbed her, pulled her to the side of the house, and raped her. After finding out that her daughter was pregnant, Kim's mother filed a complaint with the police department. Mississippi's abortion ban contains some limited exceptions, including for rape victims. However, abortion remains difficult to access in these circumstances because even if someone files a police report, there are no clear guidelines on how to qualify for legal abortion in cases of sexual violence. Kim's mother did not even know that an exception for rape existed under the criminal abortion law. Abortion providers have also left the state, further limiting access. According to the New York Times, only two legal abortions have been provided in Mississippi since the abortion ban went into effect. Once Kim's pregnancy started to show, her mother kept her at home, and she finished sixth grade on her laptop. Kim is now a mother and has started 7th grade. Mississippi has high poverty rates, the second-highest maternal mortality rate in the country, and Black women are four times more likely than white women to die in childbirth.[2]

According to the Guttmacher Institute, an estimated 17.9 million women of reproductive age currently live in states where abortion has been completely banned.[3] As this report is published, 14 states have total abortion bans in place regardless of gestational age: Alabama, Arkansas, Idaho, Indiana, Kentucky, Louisiana, Mississippi, Missouri, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, and West Virginia.[4] Another seven states have imposed gestational limits much earlier than previously approved under *Roe v Wade*; three – Florida, Georgia, South Carolina – now refuse abortion after six weeks, a time when many women do not even know they are pregnant.

While most state bans allow for limited exceptions, such as in cases of severe risks to life or health, or cases of pregnancy caused by rape or incest, these exceptions are extremely difficult to access and rarely used.

People in states with abortion bans or severe restrictions are often forced to delay their abortions as they search for willing healthcare providers in other states, or for ways to self-manage a termination. Many have no choice but to carry a pregnancy to term.

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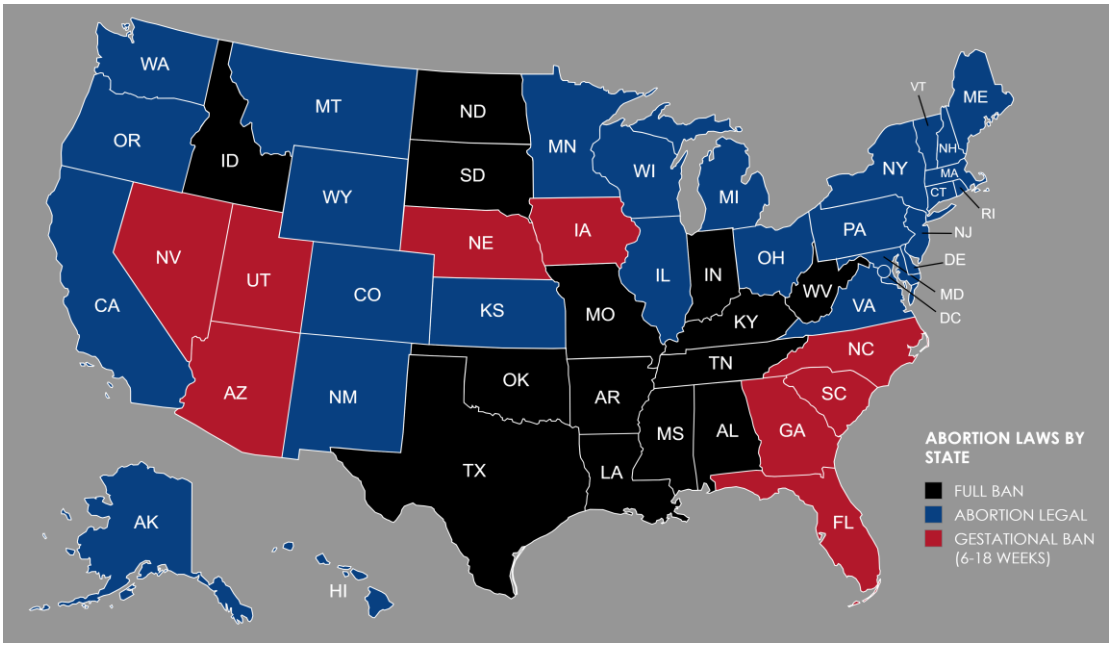
[2]Charlotte Alter, "She Wasn't Able To Get An Abortion. Now She's a Mom. Soon She'll Start 7th Grade," TIME, 14 August 2023, https://time.com/6303701/a-rape-in-mississippi/

[3] Guttmacher Institute, *Interactive Map: Us Abortion Policies and Access After Roe, 1 May 2024*, States.Guttmacher.Org/Policies/ The Term "Women Of Reproductive Age" Encompassed Women Aged 15-49.

[4] Allison McCann and Amy Schoenfeld Walker, "Tracking Abortion Bans Across The Country," The New York Times, 1 April 2024, https://www.nytimes.com/interactive/2024/us/abortion-laws-roe-v-wade.html; Guttmacher Institute, *Interactive Map: Us Abortion Policies And Access After Roe, 1 May 2024,* https://states.guttmacher.org/policies/

STATUS OF ABORTION BANS IN THE UNITED STATES AS OF JULY 25, 2024



This map represents data from the New York Times and KFF (formerly the Kaiser Family Foundation).[5]

[5] Allison McCann and Amy Schoenfeld Walker, "Tracking Abortion Bans Across the Country," New York Times, last visited 29 July 2024, www.nytimes.com/interactive/2024/us/abortion-laws-roe-v-wade.html; KFF, *Policy Tracker: Exceptions to State Abortion Bans and Early Gestational Limits*, last updated 29 July 2024; www.kff.org/womens-health-policy/dashboard/exceptions-in-state-abortion-bans-and-early-gestational-limits/

ANONYMOUS, MISSISSIPPI

The parents of a teenage rape victim had to travel more than 500 miles to help their daughter obtain an abortion in Illinois. They found out that their daughter was pregnant three days beyond Mississippi's legal limit of six weeks. State law forced Mississippi's only abortion clinic, the Jackson Women's Health Organization, to close in July 2022. The family reached out to the OB-GYN who had delivered their daughter to see if he could help. The mother said, "it was the ugliest feeling having to explain to the doctor that delivered your child that she was raped, and then him having to tell you he can't do anything to help." The family had to travel more than seven hours to an abortion clinic in Illinois and pay $1,595 for the abortion and almost $500 for a hotel.[6]

DENIAL OF ACCESS TO MEDICATION ABORTION

"I'm fortunate that the contacts I had were able to give me the pills for free because they normally cost upwards of $500. I'm a student, working three jobs and paying rent, so I'm unsure how I would have made that work. I was nervous, but I'm one of the lucky ones."

– Kaniya, Washington, DC[7]

Protestors gather in front of the US Supreme Court in March 2023 as the Court hears arguments on the regulation of abortion medication, © Amnesty International

[6] Ashton Pittman, "Teen Mississippi Rape Victim Forced To Travel 500 Miles For Abortion, Report Says," Mississippi Free Press, 29 Nov. 2022; Https://Www.Mississippifreepress.Org/Teen-Mississippi-Rape-Victim-Forced-To-Travel-500-Miles-For-Abortion-Report-Says/

[7] Amnesty International Interview with Kaniya, last name withheld, Washington, DC, 19 March 2024.

Medication abortions using mifepristone and misoprostol have been a safe way to end a pregnancy in the US for over 20 years and accounted for 63% of abortions in 2023.[8] Following the Supreme Court's decision in *Dobbs,* access to abortion pills now depends upon the state in which an individual lives. It also depends on how much they can afford to pay for medication or to travel to another state to access an in-clinic medication abortion, and whether they can navigate the process of obtaining abortion pills via telemedicine or mail.

Barriers to accessing medication abortion disproportionately impact individuals who rely on pills to self-manage an abortion. These may be people who cannot afford in-clinic costs, or who would struggle to get to a clinic appointment due to disability, childcare responsibilities, and/or lack of paid time off. Or they might be people in violent or unsafe domestic situations who cannot risk having to explain their reason for travel. The lives of people dealing with such circumstances have been thrown into turmoil by the restrictions imposed by *Dobbs*.

CRIMINALIZATION OF ABORTION

> **"I was essentially navigating my healthcare through random internet searches. Even doing the searches made me nervous. I was scared that the state might be tracking our internet searches somehow. The fearmongering in Texas after *Dobbs* had a real impact on me. The case of a Texas woman being arrested and jailed for taking medication abortion pills was fresh in my mind…I was scared to call my doctor in case there was mandatory reporting. I was not sure what the law meant."**
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> - ***Interview with Taylor (second name withheld), TEXAS[9]***

Since the *Dobbs* decision, various laws have been enacted at the state level to ban, restrict or criminalize abortion, the abortion seeker, those assisting abortion seekers, or physicians and healthcare workers treating the abortion seeker. These laws include centuries-old "zombie" statutes, which had been rendered largely irrelevant by *Roe v. Wade*,[10] but were never repealed and can now be accessed again, as well as so-called

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[8] Guttmacher Institute , *Medication Abortions Accounted For 63% Of All Us Abortions In 2023, An Increase From 53% In 2020, 19 March 2024*; www.Guttmacher.Org/News-Release/2024/Medication-Abortions-Accounted-63-All-Us-Abortions-2023-Increase-53-2020

[9] Amnesty International Interview with Taylor, Last Name Withheld, San Antonio, TX, 20 January 2024.

[10] Sarah Lehr, "The Legal Challenge Of Wisconsin's 1849 Abortion Ban Is Awaiting Its Day In Court. Where Does The Case Stand?," Wisconsin Public Radio, 30 September 2022, http://www.Wpr.Org/Legal-Challenge-Wisconsins-1849-Abortion-Ban-Awaiting-Its-Day-Court-Where-Does-Case-Stand (Quoting Wisconsin Attorney General Josh Kaul As Explaining That "[T]He Possibility Of Enforcement Is Out There Now[] . . . What That Has Meant Is That Planned Parenthood Is No Longer Providing Services In Those Three Counties. If We Get An Order Blocking Enforcement Of That Law, That Would Allow Them To Resume Services."); Erica N. White Et Al., "Abortion Access Post-Dobbs Litigation Themes," Network For Public Health Law, 4 November 2022, https://www.networkforphl.org/resources/abortion-access-post-dobbs-litigation-themes/ (Describing Other Implied Repeal Challenges In West Virginia And Arizona.)

"trigger laws" anticipating the overturn of *Roe*,[11] and laws enacted after the *Dobbs* decision.

Some state laws seek to accord "prenatal personhood" to a fetus, embryo or a fertilized egg. As a result, it is possible for a charge of "child endangerment", "assault" or even "homicide" to be brought when a pregnancy ends due to complications or miscarriage, as well as following a planned abortion. Contingent on how current and proposed state legislation develops over the coming months, pregnant individuals, doctors and others who assist them may be subject to liability that could expose them to prosecution, incarceration, loss of professional licenses, or even the death penalty.[12]

FAILURE TO PROVIDE EMERGENCY MEDICAL CARE

LEYA, MISSOURI **Name changed for privacy purposes*

Leya's water broke at 17 weeks of pregnancy, signaling that her fetus would not survive and that she was at risk of severe health complications. Despite her need for an emergency abortion, Missouri's unclear laws forced the hospital to deny her the procedure. The Kansas University Medical Center also turned her away, citing legal restrictions. Leya eventually traveled 300 miles to Illinois for her abortion, enduring physical pain during the journey. Federal investigators found both hospitals violated the Emergency Medical Treatment and Labor Act (EMTALA) by failing to stabilize Leya's health. US Department of Health and Human Services Secretary, Xavier Becerra, acknowledged the hospitals' wrongdoing, emphasizing that no patient should endure such trauma.[13]

Failing to allow pregnant individuals access to emergency medical care in states with abortion bans directly violates global norms and runs afoul of the US government's human rights obligations. Under international law and standards on the rights to life and health, states must guarantee immediate and unconditional treatment, without fear of criminal penalties or reprisals, of persons seeking emergency medical care –

[11] Arkansas, Idaho, Kentucky, Louisiana, Mississippi, Missouri, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Utah, And Wyoming Had Trigger Laws In Place Prior To The Dobbs Decision. Elizabeth Nash & Isabel Guarnieri, *States Have Abortion Trigger Bans—Here's What Happens When Roe Is Overturned,* Guttmacher Institute, *6 June 2022,* https://www.guttmacher.org/article/2022/06/13-states-have-abortion-trigger-bans-heres-what-happens-when-roe-overturned

[12] Rebecca Shabad, "S.C. Republicans Propose Bill That Could Subject Women Who Have Abortions To The Death Penalty," Nat' L Broad . Co. News, 15 March 2023, http://www.Nbcnews.Com/Politics/Politics-News/Sc-Republicans-Propose-Bill-Subject-Women- Abortions-Death Penalty-Rcna75060 ("The South Carolina Prenatal Equal Protection Act Would 'Ensure That An Unborn Child Who Is A Victim Of Homicide Is Afforded Equal Protection Under The Homicide Laws Of The State.' . . . Under South Carolina Law, People Convicted Of Murder Can Face The Death Penalty Or A Minimum Of 30 Years In Prison.").

[13] Amnesty International Interview with Doctor, Name Withheld, Conducted Via Zoom, Indianapolis, IN, 21 Mar. 2024.

including if such care includes abortion or post-abortion care that is needed after an abortion.[14]

Abortion bans in states across the US have also created a conflict with federal law under the Emergency Medical Treatment and Labor Act (EMTALA), which provides that hospitals participating in Medicare must ensure public access to emergency services, screening, and stabilizing treatment or transfer to another hospital that can provide such treatment. In Jun 2024, the US Supreme Court dismissed a case involving Idaho's abortion ban which does not include exceptions to safeguard pregnant persons' health (including in cases of emergency medical treatment) but declined to rule on the merits of the case. In doing so, the court temporarily reinstated a lower court decision allowing emergency medical abortions to be performed in Idaho, but failed to clarify whether the federal law preempts state abortion bans.

Exceptions to abortion bans, which vary from state to state, may contain exceptions to prevent severe risks to the life or health of pregnant people and/or to prevent individuals made pregnant through rape or incest from being compelled to continue the pregnancies. But, in practice, legal exceptions to criminal abortion laws are difficult to enforce due to complicated requirements to use the exception or a lack of understanding of the law and clear guidelines on when and how to apply the exceptions—which ultimately impacts the provision of healthcare. Significantly, healthcare providers are placed in precarious situations where their fear of potential criminal or administrative sanctions can impede their ability to provide the highest standard of medically-indicated care in line with their medical and legal obligations.

Unless these severe risks to the provision of emergency medical treatment are addressed, already high rates of maternal mortality in the United States will likely continue to increase over time.

DR. AMNA DERMISH, PLANNED PARENTHOOD

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[14] Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Report to The Human Rights Council (2016) (Un Doc. A/HRC/31/57).

"It felt like for the longest time that, every day I could show up to this clinic and see patients, I was winning. And then Dobbs just felt like it took that away. Every day, half the patients I would see I'd have to turn away."

DISPARATE IMPACT OF ABORTION BANS AND RESTRICTIONS

State abortion bans and restrictions in nearly half of the United States are layered upon complex webs of inequity and discrimination in healthcare, education, housing and income. Systemic and structural racism have denied many people equal access to health insurance. They often lack access to contraception and other sexual and reproductive healthcare information and services, including prenatal and maternal healthcare services, as well as abortion care. Abortion bans and restrictions have compounded these issues even further adding to already elevated risks of forced births and maternal death.

Most US states with abortion bans are in the South[15] where over 50% of the Black population and a third of American Indian and Alaska Natives (AIAN) reside.[16] For Black women, these bans represent a denial of abortion care to a constituency who, due to longstanding discrimination and ongoing challenges accessing comprehensive reproductive healthcare, seek abortions at a higher rate than any other group, and are already suffering far higher rates of maternal mortality. For Indigenous women, *Dobbs* adds even more restrictions to what many had long experienced as effective bans on abortion due to pre-existing federal government restrictions on the Indian Health Service, on which many of them depend for their healthcare. Indigenous women also suffer some of the highest rates of rape across the country and thus are disproportionately impacted by denials of safe abortion care.

Additional barriers exist for many other communities in the United States, including undocumented immigrants, transgender people, individuals living in rural areas, or those living in poverty. Socio-economic barriers prevent many individuals from being able to travel out of state to seek abortion services. In addition, the long-term socio-economic impact of being forced to give birth will have long-term consequences.

[15] US States Banning Abortion In The South Include: AK AL, FL, GA, KY, LA, MS, NC, SC, TN, WV, TX, OK; Allison McCann and Amy Schoenfeld Walker, "Tracking Abortion Bans Across the Country," New York Times, last visited 29 July 2024, https://www.nytimes.com/interactive/2024/us/abortion-laws-roe-v-wade.html

[16] Latoya Hill, Samantha Artiga, Usha Ranji, Ivette Gomez And Nambia Ndugga, *What Are The Implications Of The Dobbs Ruling For Racial Disparities*?, KFF, 24 April 2024, https://www.kff.org/womens-health-policy/issue-brief/what-are-the-implications-of-the-dobbs-ruling-for-racial-disparities/

LAURA MOLINAR, SUEÑOS SIN FRONTERAS

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“I think about that first trip to McAllen, Texas and working in the clinic, you know, with some of the volunteer physicians and hearing the stories from the women that we encountered who were pregnant, postpartum. And some of them were about to give birth and just hearing their requests for things like emergency contraception because they had been sexually assaulted along their journeys and, you know, held captive by the cartels. And they didn't know whether or not they were pregnant. They were asking for things like emergency contraception, birth control. They were asking for STI testing. … I was just like, this is a human right, … this is a part of healthcare. You know, people are dying and being oppressed because they don't have access to these basic needs.”

PROLIFERATION OF FAKE ABORTION CLINICS

JENNIFER, OHIO **Name changed for privacy purposes*

Jennifer* wanted to find out how many weeks pregnant she was because Ohio law banned abortions at six weeks. She had scheduled a scan at a facility that offered “abortion consultations” and free ultrasounds. Jennifer said, “A few things seemed a little off.” One counselor gave her prenatal vitamins, and another offered to pray for her. She was told that the ultrasound was not clear enough to date the pregnancy

and that she would have to come back a week later. She was told that she was six weeks and three days pregnant at her next appointment. A one-week delay was the difference between a legal and illegal abortion in Ohio. Jennifer suspected that the clinic was not an abortion-friendly place and that it was a crisis pregnancy center, which are often religiously- affiliated organizations that try to convince women not to have an abortion. She decided she would take abortion pills from Aid Access, a European online service that supplies abortion pills to women in states where abortion is banned. Jennifer paid $105 to order the pills and took them at home.[17]

Crisis Pregnancy Centers (CPCs), also known as Anti-Abortion Centers, Pregnancy Resource Centers and Pregnancy Care Centers, present a public health risk to pregnant people seeking medical, reproductive and obstetrics care across the United States. CPCs are found in all 50 states; according to the Crisis Pregnancy Center Map[4], there are a total of 2,529 identified centers working to prevent abortion, push abstinence and religious-based education, and coerce patients to either parent or consider adoption.

Many CPCs are affiliated with national organizations which train and guide CPCs on deceptive tactics to lure pregnant people by mimicking medical facilities, offering free pregnancy tests, ultrasounds, and newborn essentials. Amnesty International has found that these centers endanger pregnant people by failing to provide comprehensive medical care, medically accurate information, and non-biased counseling on family planning options, such as abortion. Their practices can obstruct and delay medical care, including potentially lifesaving treatments.

Even though CPCs' practices have been deemed predatory and "unethical,"[5] federal and state governments not only fail to regulate and investigate these organizations, but provide funding through grants, taxpayer funds, tax incentives and credits, which are contributing to their proliferation post-*Dobbs*.

VIOLATIONS OF HUMAN RIGHTS

By denting and restricting access to abortion and failing to ensure that abortion care is affordable and widely available, the United States is failing to comply with international human rights laws and standards to ensure pregnant individuals have equal access to abortion information services. Human rights that support the right to access abortion include the right to life, health, privacy, to seek, receive, and impart information, liberty and security, freedom from torture and other cruel, inhuman, and degrading treatment, and freedom from discrimination. Each of these rights are also enabling rights to the realization of the full range of human rights. Equal access to abortion is also critical in achieving gender, racial, and economic justice.

International human rights law and standards confirm that decisions about an individual's body are their own. Forcing someone to continue an unwanted pregnancy or to seek out an unsafe abortion is a **violation of their human rights.** Two years after the US Supreme court overturned *Roe v. Wade,* the human right to access abortion continues to be under attack in the United States. The *Dobbs* decision has resulted in

[17]Caroline Kitchener, "Pregnant And Desperate In Post- Roe America," The Washington Post, 1 December 2022, https://www.washingtonpost.com/politics/interactive/2022/pregnant-post-roe-america-abortion/

a patchwork of devastating laws, with abortions now totally or near totally banned in 21 states across the country. This means women, girls, and others who can get pregnant are blocked from accessing abortion care.

The only way to stop this dangerous and discriminatory human rights failure and to ensure universal access to abortion in the US without the interference of politicians is through full federal protection of the right to abortion. This report aims to raise the profile of stories of people across the country whose human rights have been violated by state-level abortion bans and access restrictions. The United States must take swift action to address this human rights crisis as, every day, people's lives hang in the balance.

KEY RECOMMENDATIONS

- The US government must guarantee sexual and reproductive rights for all women, girls, and people who can become pregnant, including timely and effective access to abortion care by adopting an explicit law to protect the right to abortion.
- The US government should develop and distribute guidance to ensure access to accurate information on how to access abortion care, including with medication abortion at a clinic or as self-administered and to self-assess the success of the abortion, and where to seek post-abortion care in case of complications.
- The federal and state governments should ensure that abortion medication is available in all states, through both physician and non-physician medical professionals, telehealth, certified pharmacies, and mail.
- State governments must fully decriminalize abortion, which requires not only stopping punishment of pregnant people for their pregnancy outcomes, healthcare providers and others for obtaining, assisting with, or providing abortion services, but also removing abortion from criminal laws and all other punitive laws, policies and practices and refraining from adoption of further restrictions on or introducing new barriers to abortion.
- State governments must ensure equitable and affordable access to abortion for all people who need it without discrimination. States that do not currently include abortion in state Medicaid coverage should do so without limitations.
- The US government should make every effort to combat misinformation around abortion and to address abortion-related stigma, which are key barriers preventing pregnant people from having timely access to safe and high-quality healthcare.

GLOSSARY OF ABBREVIATIONS AND TERMS

WORD/ACRONYM	DESCRIPTION
AIDING AND ABETTING ABORTION	Some states impose criminal liability for "aiding or abetting" abortion, making it a crime for any individual to assist a pregnant person in obtaining an abortion. This can include any medical professionals who have discussed or provided information about obtaining an abortion; family, friends, or religious leaders; rideshare or cab drivers who transport patients to abortion clinics; or people who contribute financially or provide other forms of support.
ABORTION/MISCARRIAGE	Abortion is the induced or spontaneous termination of pregnancy. For the purposes of this report, the term abortion will refer to the induced termination of pregnancy through medical (using abortion medication) or surgical methods, and the term miscarriage will refer to the spontaneous termination of pregnancy.
ABORTION FUND	Grassroots organization or group that supports people seeking abortion access, especially by providing financial assistance to individuals seeking an abortion.
ABORTION PILL	The abortion pill or abortion medication is in fact two medicines. The first medicine ends the pregnancy and is named mifepristone. It works by blocking the hormone progesterone. Without progesterone, the lining of the uterus breaks down and the pregnancy cannot continue. The second medicine, misoprostol, makes the womb contract, causing cramping, bleeding and the loss of the pregnancy similar to a miscarriage. The WHO's Model List of Essential Medicines includes both misoprostol and mifepristone.

ABORTION PROVIDER	Any physician, clinic, or facility licensed to provide an abortion.
ABORTION SERVICES	Services that include the provision of medical or surgical abortions, post-abortion care, post-abortion contraception, as well as evidence-based abortion-related information and non-directive counselling about pregnancy options.
ABORTION TRAFFICKING	A term used to criminalize when an adult assists a young person in obtaining an abortion with the intent of concealing the procedure from a parental or guardian figure.
ABORTION-RELATED STIGMA	Abortion-related stigma results from applying negative stereotypes to people involved in seeking, obtaining, providing or supporting abortion. States have an obligation to combat misinformation around abortion and to address abortion-related stigma, which are key barriers preventing pregnant people from having timely access to safe and high-quality healthcare.
AI/AN	American Indians and Alaska Natives
ALLIANCE FOR HIPPOCRATIC MEDICINE ET AL. V. U.S. FOOD AND DRUG ADMINISTRATION	A lawsuit against the FDA's approval of mifepristone and the agency's actions to increase access to the drug. The case was decided by the Supreme Court in June 2024.
BODILY AND REPRODUCTIVE AUTONOMY	The capacity of an individual to make decisions regarding their own sexual and reproductive health rights.
BUFFER ZONE LAWS	Laws that designate a specific area, varying in size and type, that surrounds an abortion clinic. This zone requires that protestors remain at a certain distance from the facility.
CDC	Centers for Disease Control and Prevention: the national public health agency of the United States.
CONTRACEPTION	Contraception, also known as birth control, fertility control or family planning, is a method or device to prevent pregnancy.
CRIMINALIZATION OF ABORTION	The regulation through criminal law of having, assisting in, or providing an abortion.
CRISIS PREGNANCY CENTER (CPC)	Also known as “Anti-Abortion Centers”, “Pregnancy Resource Centers” and “Pregnancy Care Centers" are facilities that falsely represent themselves as reproductive healthcare clinics that work to dissuade people from accessing certain types of reproductive healthcare, including abortion care and contraceptive options. They are not subject to HIPAA and lack oversight.
DE-FACTO ABORTION BAN	While abortion may technically be legal in certain circumstances, abortion is essentially banned due to heavy restrictions.

DEPO PROVERA	A brand name for a contraceptive injection used to prevent pregnancy and manage one's menstrual cycle.
DESTIGMATIZE	The process of removing the potential negative associations or stereotypes towards abortion.
DIGITAL SURVEILLANCE	The use of technology to surveil or investigate people or situations.
DILATION AND EXTRACTION (D&X)	A surgical abortion procedure commonly used in the second trimester of a pregnancy in which the patient's cervix is dilated and suction is used to remove the fetus.
DOBBS V. JACKSON WOMEN'S HEALTH ORGANIZATION	2022 US Supreme Court case in which the court held that the Constitution of the United States does not confer a right to abortion. This ruling overturned both *Roe v. Wade* and *Planned Parenthood v. Casey* and returned the power to regulate abortion to the states.
ECTOPIC PREGNANCY	This occurs when a fertilized egg grows outside of the main cavity of the uterus. An ectopic pregnancy can't proceed normally; the fertilized egg can't survive, and the growing tissue may cause life-threatening bleeding if left untreated.
EMBRYO/FETUS	Embryo: the initial stage of development during pregnancy from about the third week of pregnancy until the end of the eighth week of pregnancy. Fetus: the period of development from about nine weeks and on.
EMTALA	Emergency Medical Treatment and Active Labor Act- A federal law compelling Medicare-participating hospitals to provide care to an individual, despite any financial restriction.
FETAL ANOMALIES	Unusual or unexpected conditions in a fetus' development during pregnancy that sometimes are incompatible with extra-uterine life.
FETAL HEARTBEAT	A process in fetal development when the cardiac tissue (the fetus does not have a heart) of the fetus starts to pulse, typically at five to six weeks of pregnancy.
GESTATION PERIOD	Gestation is the period of development between conception and birth, measured in weeks.
GESTATIONAL DURATION BANS	Laws prohibiting abortion after a certain point or week in pregnancy.
HHS	The Department of Health and Human Services; HHS provides health and human services to Americans.
HIPPA	The Health Insurance Portability and Accountability Act, which establishes standards to protect the privacy and security of patients' health information.

HYDE AMENDMENT	An amendment passed in 1977 that prohibits federal funding on the health coverage of abortion.
IHS	Indian Health Service: A healthcare system for eligible American Indian and Alaska Natives in the United States.
INTIMATE PARTNER VIOLENCE (IPV)	Also called "domestic violence". Behavior within an intimate relationship that causes physical, sexual, or psychological harm, including acts of physical aggression, sexual coercion, psychological abuse, and controlling behaviors by both current and former spouses and partners.
LGBTQI+	Lesbian, gay, bisexual, transgender, queer, intersex, plus. Various versions of this acronym are used by different communities, and terms and acronyms evolve and change. We seek to use terminology that is both inclusive and accurate.
MATERNAL MORBIDITY AND MORALITY	Maternal morbidity is any health condition attributed to and/or complicating pregnancy and childbirth that has a negative impact on the pregnant person's well-being and/or functioning. Maternal mortality is the death of a pregnant person while pregnant or within one year of the end of pregnancy from any cause related to or aggravated by the pregnancy.
MEDICATION ABORTION	The use of abortion medication to end a pregnancy.
MIFEPRISTONE	An oral medication used to induce a medication abortion by blocking progesterone distribution in a pregnant individual, used in combination with misoprostol.
MISCARRIAGE	The sudden loss of a pregnancy before the 20th week.
MISINFORMATION	False or inaccurate information.
MISOPROSTOL	A drug used for a variety of reproductive health purposes, including the inducement of abortion.
NONVIABLE FETUS	A pregnancy in which there is no chance of the fetus coming to term or being compatible with extrauterine life.
OBGYN	Obstetrician and Gynecologist, doctors trained in pregnancy, childbirth, and reproductive health.
OBSTETRICIANS	A physician who specializes in preconception, pregnancy, and childbirth.
PARTIAL-BIRTH ABORTION ACT	A 2003 law prohibiting a type of dilation and extraction abortion. "Partial birth" is not a medical term; it is a political term.
PLANNED PARENTHOOD V. CASEY	1992 US Supreme Court case in which the court upheld the right to an abortion as established by *Roe v. Wade* and restored

	the undue burden standard when evaluating state-imposed restrictions on that right.
PREGNANT PEOPLE/PEOPLE WHO CAN BECOME PREGNANT	Amnesty International refers to women, girls, and people who can get pregnant and pregnant people. This framing recognizes that while the majority of personal experiences with abortion relate to cisgender women and girls (that is, women and girls whose sense of personal identity and gender corresponds with the sex they are assigned at birth), intersex people, transgender men and boys, and people with other gender identities may have the reproductive capacity to become pregnant and may need and have abortions.
PROGESTERONE	A hormone supporting menstruation and maintaining pregnancy.
REPRODUCTIVE AGE	The age at which women, girls, and people who can get pregnant are most fertile and most likely to get pregnant. Commonly designated as 15-49 years of age.
REPRODUCTIVE JUSTICE	A social justice movement rooted in the belief that individuals and communities should have the resources and power to make sustainable and free decisions about their bodies, genders, sexualities, reproduction and lives.
ROE V. WADE	1973 US Supreme Court case in which the court legalized abortion in the United States. The court ruled that the Constitution of the United States generally protected a right to have an abortion. The decision struck down many abortion laws at the state level.
SEXUAL AND REPRODUCTIVE RIGHTS	Sexual and reproductive rights are human rights. They have been recognized by international human rights treaties and bodies. They allow us to make decisions about our lives and personal relationships; to decide if, when and with whom we have sex; to protect ourselves from sexual ill-health; and to enjoy our sexuality free from the threat of prosecution, discrimination, coercion or violence. They allow us to decide whether and when to become pregnant and who, when or if we marry. They ensure adequate protection from sexual violence and preventable pregnancy-related illness and death.
STILLBIRTH	The loss of a fetus that occurs after 20 weeks of pregnancy.
SURGICAL ABORTION	A procedure that removes a fetus and placenta from the pregnant person's uterus to end an unwanted pregnancy. It's usually performed within 12 weeks of the first day of the last menstrual period.
THE COMSTOCK ACT	An 1873 law that criminalized the use of the US postal service to send “obscenity,” contraceptives, abortifacients, sex toys, or personal letters with any sexual content or information.
TRIGGER LAW	An unenforceable law that can become enforceable if something changes. Multiple "trigger laws" banning or

	restricting abortion at the state level became enforceable when *Roe* was overturned.
TUBAL ECTOPIC PREGNANCIES	A type of ectopic pregnancy in which the pregnancy occurs at the fallopian tube and can be life-threatening.

METHODOLOGY

This report is based on research carried out during 2023 and 2024 by Amnesty International. Through the course of our research, we identified cases that demonstrate the human toll of restrictions on access to abortion care in the United States following the landmark 2022 Supreme Court decision in *Dobbs v. Jackson Women's Health Organization*. We sought to interview people based on the following criteria: age, race, ethnicity, income level, pre-existing medical condition, sexual orientation, gender identity, immigration status, and access to healthcare/resources, among others.

Amnesty International conducted 85 interviews with individuals across the USA to assess the human rights impact of the bans and restrictions on people from different backgrounds and with a range of lived experiences. These in-depth interviews included women impacted by *Dobbs*, their families, activists, advocates, public health experts, support workers, service providers, and health workers from across the United States. The individuals interviewed have given their consent to share their stories. Some names have been withheld for privacy and security reasons. Amnesty International also conducted in-person field research in Texas, Tennessee, Illinois, Missouri, New Mexico and Arizona. These locations were selected either because they were among the most impacted by abortion bans and restrictions post-*Dobbs* or they are bordering states fielding abortion care from restrictive states in this new landscape. Together, research conducted in these six states provides critical insight on the comprehensive impact of limited access to reproductive healthcare services.

The report is also based on a comprehensive 50-state landscape analysis post-*Dobbs* of cases of individuals impacted by abortion bans and restrictions through a range of sources, including media reports, litigation, and non-governmental organization reports. These individuals shared their experiences with media organizations, in court proceedings, during congressional testimonies, and with non-governmental organizations. Amnesty International has changed the names of any individuals mentioned in these sources where direct consent was not obtained, however original sources are documented in the footnotes and are publicly available. Amnesty International has noted throughout this report how these individual experiences were documented and has included them in this report to demonstrate the scope and impact of how many individuals and communities across the country have been impacted by abortion bans and restrictions. Amnesty International also reviewed medical and public health literature on reproductive healthcare and maternal health federal and state governmental data, including from the Centers for Disease Control, Food and Drug Administration, and Department of Health and Human Services. This research focused on disparities in health provision and outcomes and on forced births, preventable

deaths, and complications. Amnesty International reviewed information on the rapidly changing legal landscape relating to abortion from a range of sources regularly tracking this data, including the New York Times, KFF (formerly the Kaiser Family Foundation), and the Guttmacher Institute. Where this data has been used it is cited accordingly.

Researchers contacted officials and sent questionnaires to the federal Department of Health and Human Services regarding abortion access nationwide post *Dobbs,* specifically requesting data on abortions, maternal mortality, maternal morbidity, impact on service providers and health professionals, access to accurate reproductive health information and services, funding and regulating of Crisis Pregnancy Centers, and/or information on specific initiatives being undertaken to address needs of marginalized individuals and groups already facing barriers to adequate abortion care. Amnesty International also sent questionnaires to state departments of health seeking the same information and additional data, research, and resources regarding access to reproductive healthcare. We received responses from Washington, DC, Hawaii, Illinois, Massachusetts, North Carolina, Pennsylvania, South Carolina and Vermont. These responses are included in an Appendix to this report.

Amnesty International wishes to thank all the families and individuals who agreed to share their experiences. Amnesty International is grateful to the organizations, experts and individuals who generously shared information, perspectives, and analysis.

INTERNATIONAL HUMAN RIGHTS FRAMEWORK

WHY IS ABORTION A HUMAN RIGHTS ISSUE?

> **"Criminalization of termination of pregnancy is one of the most damaging ways of instrumentalizing and politicizing women's bodies and lives, subjecting them to risks to their lives or health in order to preserve their function as reproductive agents and depriving them of autonomy in decision-making about their own bodies."**
>
> *– UN Working Group on Discrimination against Women and Girls (2016)*[18]

Equal access to abortion is a human right. Abortion is firmly rooted within States' legal obligations to respect, protect, and fulfil human rights because access to abortion-related information and services is essential to the realization of a wide range of other human rights, including the rights to life, health, privacy, information, liberty and security, freedom from torture and other cruel, inhuman or degrading treatment or punishment ('other ill-treatment'), and freedom from discrimination. While abortion is only explicitly referenced within the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa ('Maputo Protocol'),[19] there has been an increasing recognition among all UN bodies monitoring the implementation of human rights treaties that solely permitting abortion in certain circumstances fails to protect the human rights of all pregnant persons. As such, human rights bodies, experts, and UN agencies have moved away from recommending that States simply expand exceptions to their criminal abortion laws, to calling for full decriminalization and removal of legal, regulatory, health system and societal barriers to ensure safe abortion access for all who need it.[20] The World Health Organization (WHO), relying on extensive public health evidence, also recommends full decriminalization of abortion

[18] The UN Working Group on the issue of discrimination against women in law and in practice, Report of the Working Group, UN Doc. A/HRC/32/44 (2016), para. 79.
[19] Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol Text). African Union; 2003, Art.14.2 (c).
[20] Amnesty International, Policy on Abortion: Explanatory Note (previously cited) p. 33.

and provision of abortion services on request, and recommends against laws and other regulations that restrict abortion to certain grounds.[21]

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US INTERNATIONAL LEGAL OBLIGATIONS

The USA has signed[22] and ratified[23] international human rights treaties which obligate it to respect, protect and fulfil human rights related to abortion. The respect obligation requires the government to refrain from interfering with human rights in the context of abortion. The obligation to **protect** requires the government to protect individuals and

[21] WHO, *Abortion Care Guideline, 2022*, p. 24, https://iris.who.int/bitstream/handle/10665/349316/9789240039483-eng.pdf?sequence=1. (The WHO defines full decriminalization as the "remov[al of] abortion from all penal/criminal laws, not applying other criminal offences (e.g. murder, manslaughter) to abortion, and ensuring there are no criminal penalties for having, assisting with, providing information about, or providing abortion, for all relevant actors).

[22] The US has also signed, but not yet ratified the ICESCR, CEDAW, CRC and the CRPD. As a signatory to these treaties, the US must refrain from acts that would defeat their object and purpose. See United Nations, The State Parties to the International Covenant on Economic, Social and Cultural Rights (ICESCR), https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-3&chapter=4 (US ratification, 5 Oct. 1977); See United Nations, The State Parties to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-8&chapter=4&clang=_en (US ratification, 17 July 1980); See United Nations, The State Parties to the Convention on the Rights of the Child (CRC), https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&clang=_en (US ratification, 16 Feb. 1995); See United Nations, Vienna Convention on the Law of Treaties (23 May 1969), United Nations, Treaty Series (Vol. 1155) (VCLT), Art. 18.

[23] The USA has ratified the ICCPR, ICERD and the CAT. See United Nations, The State Parties to the International Covenant on Civil and Political Rights (ICCPR), available. at https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=_en&mtdsg_no=IV-4&src=IND (US ratification, 8 June 1992); See United Nations, The State Parties to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-2&chapter=4&clang=_en (US ratification, 21 Oct. 1994); See United Nations, The State Parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), https://www.ohchr.org/sites/default/files/cat.pdf (US ratification, 21 Oct. 1994).

groups against human rights abuses, including as they relate to pregnancy and reproduction. The obligation to **fulfil** human rights requires the USA to take positive steps to enable the enjoyment of human rights in the context of abortion, including by creating enabling laws and policies around abortion and removing barriers to abortion access. In addition to these over-arching obligations, UN treaty bodies have issued a range of specific recommendations to States based on specific human rights protections to which the US government should comply.

RIGHT TO LIFE

While States can regulate abortion, laws and policies must not violate pregnant persons' right to life or other rights.[24] Along these lines, States must remove barriers to safe and legal abortion access and refrain from introducing new ones,[25] as well as ensure that pregnant people are not compelled to undertake life-threatening clandestine abortions.[26]

RIGHT TO HEALTH

States must ensure abortions are safe, available, accessible and of good quality.[27] Where abortion is legal, States must establish systems to guarantee effective access to abortion,[28] without adverse consequences for women or healthcare providers.[29] States must also repeal and refrain from enacting laws and policies that create barriers to abortion access, including biased counselling requirements and mandatory waiting periods.[30] States should further take all reasonable measures to enable healthcare providers to do their work without interference, intimidation, or restrictions.[31] States should also refrain from discriminating in access to healthcare or compelling healthcare providers to deny services to women exercising their reproductive rights.[32]

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[24] Human Rights Committee, *General Comment 36 (Article 6: Right to Life)*, UN Doc. CCPR/C/GC/36 (Sept. 3, 2019), para. 8.
[25] Human Rights Committee, *General Comment 36 (Article 6: Right to Life)*, UN Doc. CCPR/C/GC/36 (Sept. 3, 2019), para. 8.
[26] HRC, General Comment No. 28: Article 3 (The Equality of Rights between Men and Women) (2000) UN Doc. CCPR/C/21/Rev.1/Add.10) The UN Special Rapporteur on extrajudicial, summary and arbitrary executions has observed that the death of a woman medically linked to deliberate denial of life-saving medical care because of a legal ban on abortion is a violation of the right to life and a gender-based arbitrary killing. See Special Rapporteur on extrajudicial, summary or arbitrary executions, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on a gender-sensitive approach to arbitrary killings (2017) UN Doc. A/HRC/35/23
[27] Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Interim Report to the General Assembly (2011) UN Doc. A/66/254
[28] HRC, *LC v Peru* (2011) UN Doc. CEDAW/C/50/D/22/2009
[29] Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Report to the Report to the Human Rights Council (2013) UN Doc. A/HRC/22/53
[30] CESCR, General Comment 22 on the right to sexual and reproductive health (Article 12 of the International Covenant on Economic, Social and Cultural Rights) (2016) UN Doc. E/C/12/GC/22
[31] Special Rapporteur on extrajudicial, summary or arbitrary executions, Report to the General Assembly (2018) UN Doc. A/73/314*
[32] Special Rapporteur on extrajudicial, summary or arbitrary executions, Report to the General Assembly (2018) (UN Doc. A/73/314*

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RIGHT TO PRIVACY

States should repeal abortion bans and other restrictions on abortion that interfere with pregnant individuals' ability to make decisions about their pregnancies and bodies, as protected by the right to privacy.[33] They must also refrain from requiring judicial authorization for abortion, which unjustly interferes with decisions that should be made between patients and their medical providers,[34] and from requiring doctors and healthcare providers to report cases where individuals have undertaken abortion.[35]

RIGHT TO SEEK, RECEIVE AND IMPART INFORMATION

States should ensure the availability of accurate abortion-related information, that such information can flow freely without state interference on moral or other grounds,[36] and that healthcare providers can distribute such information without fear of criminal sanction.[37] States should always provide health information, including abortion-related information, in a manner consistent with individual needs, taking age, gender, language

[33] See *Whelan v. Ireland*, para. 7.9; *Mellet v. Ireland*, para. 7.8; *K.L. v. Peru*, para. 6.4.
[34] HRC, LMR v Argentina (2011) UN Doc. CCPR/C/101/D/1608/2007.
[35] HRC, General Comment 28: Article 3 (The Equality of Rights between Men and Women) (2000) UN Doc. CCPR/C/21/Rev.1/Add.10.
[36] Report of the United Nations Working Group on the issue of discrimination against women in law and in practice (2016) UN Doc. A/HRC/32/44.
[37] HRC, *Whelan v. Ireland* (2017) UN Doc. CCPR/C/11/D/2425/2014; HRC, *Mellet v. Ireland*, United Nations (2016) UN Doc. CCPR/C/116/D/2324/2013.

ability, education, disability sexual orientation, gender identity, and intersex status into account,[38] and in accessible formats. [39]

RIGHT TO LIBERTY AND SECURITY OF THE PERSON

States must refrain from arresting and imprisoning individuals on abortion-related charges — including those experiencing miscarriage or stillbirth — which infringes on their right to liberty and security of the person.[40] They must also refrain from forcing pregnant people to continue unwanted pregnancies which amount to physical and psychological invasions of their bodies and lives, or criminalizing abortion which compels individuals to obtain unsafe abortions in violation of their rights to security of person and physical integrity.[41]

RIGHT TO FREEDOM FROM TORTURE AND OTHER CIDT

States must decriminalize abortion and ensure equal access to services to comply with their obligation to prevent torture and other CIDT. State laws, particularly those that criminalize abortion and/or provide no exception in situations of rape, incest, threat to the life or health of the pregnant person, or fatal fetal anomaly,[42] have been found to violate the right to be free from torture and other CIDT.[43] Narrow legal grounds that only permit abortion to save a pregnant person's life and not to preserve their health, fail to comply with States' international legal obligations to refrain from adopting policies that lead to torture or CIDT.[44] States must further refrain from denial abortions that may result in "physical and mental suffering so severe in pain and intensity as to amount to torture".[45]

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[38] CESCR, General Comment 22: The right to sexual and reproductive health (Article 12 of the International Covenant on Economic, Social and Cultural Rights) (2016) UN Doc. E/C/12/GC/22; see also CRPD, General Comment 3, Article 6: Women and girls with disabilities (2016) UN Doc. CRPD/C/GC/3.
[39] CRPD, General Comment No. 3: Article 6: Women and girls with disabilities (2016) UN Doc. CRPD/C/GC/3
[40] See ICCPR, Art. 9.
[41] Human rights bodies have explicitly stated that the criminalization of abortion is a form of prohibited gender-based violence. See CEDAW Committee, General Recommendation 35 on gender-based violence against women, updating General Recommendation 19, UN Doc. CEDAW/C/GC/35 (2017).
[42] See, e.g., *Whelan v. Ireland*, para. 7.5-7.7; *Mellet v. Ireland*, para. 7.4-7.6; *K.L. v. Peru*, para. 6.3; V.D.A. v. Argentina, para. 9.2; CAT Committee, Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland (U.N. Doc. CAT/C/GBR/CO/6) (7 June 2019), paras. 46-47; CAT Committee, Concluding observations of the Committee against Torture - Paraguay (U.N. Doc. CAT/C/PRY/CO/4-6) (14 Dec. 2011), para. 22; CAT Committee, Concluding observations on the initial report of Timor-Leste (U.N. Doc. CAT/C/TLS/CO/1) (29 Nov. 2017), para. 34.
[43] See CAT, Art. 16; ICCPR, Art. 7; CRC, Arts. 19, 37; CRPD, Art. 15.
[44] CAT Committee, Concluding observations on the third periodic report of the Philippines (U.N. Doc. CAT/C/PHL/CO/3) (2 June 2016), para. 40(b) (urging the state to "[r]eview its legislation in order to allow for legal exceptions to the prohibition of abortions in specific circumstances such as when the pregnancy endangers the life or health of the woman, when it is the result of rape or incest and in cases of foetal impairment…") (emphasis added).
[45] See CAT Committee, Concluding observations on the seventh periodic report of Poland (U.N. Doc. CAT/C/POL/CO/7) (29 Aug. 2019), para. 33(d); see also HRC, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (U.N. Doc. A/HRC/31/57) (5 Jan. 2016), para. 44 ("The denial of safe abortions and subjecting women and girls to humiliating and judgmental attitudes in such contexts of extreme vulnerability and where timely healthcare is essential amount to torture or ill treatment."). Denial of abortion, healthcare and bereavement support in cases of fatal fetal diagnosis has been found to lead to sufficient level of suffering to violate the right to freedom from torture and other CIDT. See HRC, *Whelan v. Ireland* (2017) UN Doc. CCPR/C/11/D/2425/2014); HRC, *Mellet v. Ireland*, United Nations (2016) UN Doc. CCPR/C/116/D/2324/2013.

RIGHT TO FREEDOM FROM DISCRIMINATION

States' non-discrimination obligations require them to refrain from interfering with pregnant individuals' access to reproductive healthcare, including abortion care.[46] They must further ensure that health-related laws and policies "accommodate the fundamental biological differences between men and women in reproduction and do not directly or indirectly discriminate on the basis of sex."[47] States must also guarantee equal access to sexual and reproductive healthcare that only women and individuals who can become pregnant need,[48] as well as refrain from restricting abortion access on the basis of sex, race, ethnicity, socio-economic status[49] and age[50], among other prohibited bases of discrimination.[51]

[46] Human Rights Committee, *General Comment 28 (Article 3: the Equality of Rights Between Men and Women)*, U.N. Doc. CCPR/C/21/Rev.1/Add.10 (Mar. 29, 2000), para. 20. See also Human Rights Committee, *Whelan v Ireland,* Comm. No. 2425/2014, UN Doc. CCPR/C/119/D/2425/2014 (12 June 2017), para. 7.12; HRC, *Mellet v. Ireland,* Comm. No. 2324/2013, UN Doc. CCPR/C/116/D/2324/2013 (17 Nov. 2017) para. 7.11.

[47] *Mellet v. Ireland*, para. 7 (Cleveland, S., concurring). *See also Whelan v. Ireland* (Cleveland, S., concurring).

[48] CEDAW Committee, *General Recommendation 24 (Article 12: Women and Health)*, UN Doc. A/54/38/Rev.1 (1999), chap. 1, para. 11; CEDAW Committee, *Views of the Committee under Article 7(3) of the Optional Protocol, Concerning Commc'n No. 17/*2008, U.N. Doc. CEDAW/C/49/D/17/2008 (Sept. 27, 2011) (*Alyne da Silva Pimentel Teixeira v Brazil*); CEDAW Committee, *Summary of the Inquiry concerning the Philippines under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, UN Doc. CEDAW/C/OP.8/PHL/1 (Apr. 22, 2015); CEDAW Committee, *Report of the Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, UN Doc. CEDAW/C/OP.8/GBR/1 (6 Mar. 2018).

[49] Working Group on the issue of discrimination against women in law and in practice, Women's Autonomy, Equality and Reproductive Health in International Human Rights: Between Recognition, Backlash and Regressive Trends (Oct. 2017), p. 2, https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WG/WomensAutonomyEqualityReproductiveHealth.pdf.

[50] CRC Committee, General Comment No. 20 on the implementation of the rights of the child during adolescence (U.N. Doc. CRC/C/GC/20) (6 Dec. 2016), paras. 60-61

[51] Working Group on the issue of discrimination against women in law and in practice, Women's Autonomy, Equality and Reproductive Health in International Human Rights: Between Recognition, Backlash and Regressive Trends (Oct. 2017), https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WG/WomensAutonomyEqualityReproductiveHealth.pdf.

HUMAN RIGHTS BODY RECOMMENDATIONS TO THE USA FOLLOWING THE *DOBBS* DECISION

- Providing legal, effective, safe and confidential access to abortion for women and girls throughout its territory, without discrimination and free from violence and coercion;
- Repealing laws that criminalize abortion and harmonizing abortion laws and policies with WHO Abortion Care Guideline;
- Ensuring privacy and confidentiality in healthcare settings for both medical staff and patients, and protecting women seeking abortion care from surveillance of their personal digital data for prosecution purposes;
- Removing and refraining from introducing new barriers that impede access to abortion care, including inter-state travel restrictions;
- Continue efforts to guarantee and expand access to medication abortion.[52]

The Committee on the Elimination of Racial Discrimination (CERD Committee) also recently expressed particular concern to the US government that "systemic racism, along with intersecting factors such as gender, race, ethnicity and migration status, have a profound impact on access by women and girls to the full range of sexual and reproductive health services … without discrimination," particularly in light of "the limited availability of culturally sensitive and respectful maternal healthcare."[53] The Committee recommended that the USA "take all measures necessary…to provide safe, legal and effective access to abortion in accordance with the State party's international human rights obligations."[54]

[52] Working Group on the issue of discrimination against women in law and in practice, Women's Autonomy, Equality and Reproductive Health in International Human Rights: Between Recognition, Backlash and Regressive Trends (Oct. 2017), at para. 29.
[53] Committee on the Elimination of Racial Discrimination, *Concluding Observations on the Combined Tenth to Twelfth Reports of the United States of America*, U.N. Doc. CERD/C/USA/CO/10-12 (21 Sept. 2022), para. 35.
[54] CERD Committee, Concluding observations on the combined tenth to twelfth reports of the United States of America (U.N. Doc. CERD/C/USA/CO/10-12) (21 Sept. 2022), para. 35.

1. INTRODUCTION

In 1973, a decision by the United States Supreme Court in Roe v. Wade established the constitutional right to an abortion in the United States,[55] putting an end to the abortion bans or severe restrictions imposed by almost all states at the time. By confirming that these bans were unconstitutional, the decision legalized abortion and paved the way for greater accessibility to safe abortion care across the country.

For almost 50 years, the Supreme Court repeatedly reaffirmed that the US Constitution protects the right to abortion as an essential liberty interconnected with other rights to make decisions about family, relationships, and bodily autonomy.[56] While racialized individuals, people on low-incomes, and others experiencing structural oppression continued to face obstacles in accessing abortion care,[57] those five decades of constitutional jurisprudence established a minimum floor of protection for abortion access. It should be noted that in the years following the landmark Planned Parenthood v. Casey case in 1992, there had been increasing barriers and restrictions on access to abortion and abortion was already inaccessible to many. The court's decision in Planned Parenthood v. Casey, established the "undue burden" standard, requiring any challenges to laws restricting access to abortion to demonstrate that they have the "purpose or effect of placing a substantial obstacle" in the way of a person seeking an abortion.[58]

But 50 years of progress were swept aside on 24 June 2022 when, in Dobbs v. Jackson Women's Health Organization, a new Supreme Court decision overturned Roe v. Wade and, for the first time in Supreme Court history, took away a fundamental right.[59] The Court's decision removed the federal constitutional right to an abortion and placed abortion policies and sexual and reproductive rights back in the hands of individual states.

This has resulted in severe consequences for those seeking abortion care in the U.S.

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[55] United States Supreme Court, *Roe V. Wade*, 410 US 113 (1973), Supreme.Justia.Com/Cases/Federal/Us/410/113/.

[56] Center For Reproductive Rights, "Roe V. Wade," Reproductiverights.Org/Roe-V-Wade (accessed on 30 July 2024).

[57] Center For Reproductive Rights, "Roe V. Wade," Reproductiverights.Org/Roe-V-Wade (accessed on 30 July 2024).

[58] *Planned Parenthood Of Southeastern Pa. V. Casey*, 505 US 833 (1992), Https://Supreme.Justia.Com/Cases/Federal/Us/505/833/; Planned Parenthood Historical Abortion Timeline: 1850-Today, Https://Www.Plannedparenthoodaction.Org/Issues/Abortion/Abortion-Central-History-Reproductive-Health-Care-America/Historical-Abortion-Law-Timeline-1850-Today

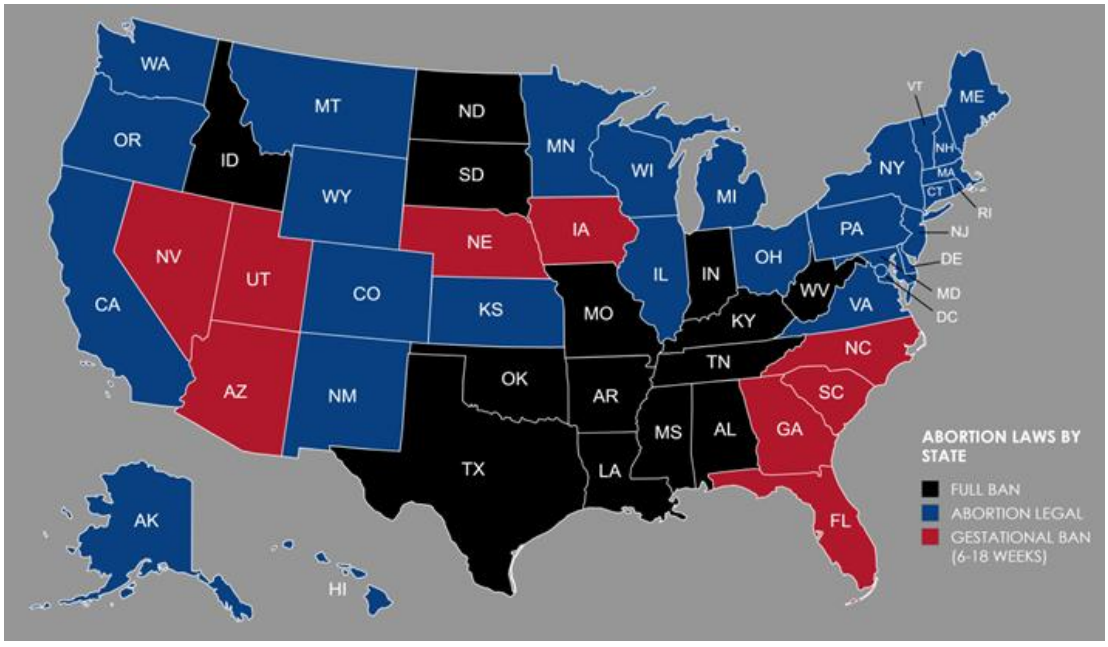
[59] United States Supreme Court, *Dobbs V. Jackson Women's Health Organization*, 597 US 215 (2022), Https://Www.Supremecourt.Gov/Opinions/21pdf/19-1392_6j37.Pdf; Center For Reproductive Rights, "Roe V. Wade," Reproductiverights.Org/Roe-V-Wade/

ANONYMOUS, MISSISSIPPI

The parents of a teenage rape victim had to travel more than 500 miles to help their daughter obtain an abortion in Illinois. They found out that their daughter was pregnant three days beyond Mississippi's legal limit of six weeks. State law forced Mississippi's only abortion clinic, the Jackson Women's Health Organization, to close in July 2022. The family reached out to the OB-GYN who had delivered their daughter to see if he could help. The mother said, "it was the ugliest feeling having to explain to the doctor that delivered your child that she was raped, and then him having to tell you he can't do anything to help." The family had to travel more than seven hours to an abortion clinic in Illinois and pay $1,595 for the abortion and almost $500 for a hotel.[60]

1.1 THE NEW RIGHTS LANDSCAPE

According to the Guttmacher Institute, an estimated 17.9 million women of reproductive age live in states where abortion has been completely banned.[61] While many of these states allow for exceptions, the exceptions are generally narrow, limited and extremely difficult to access. Even where exceptions may be granted in states with a total ban, abortion providers in such states are inevitably now hard to find.



[60] Ashton Pittman, "Teen Mississippi Rape Victim Forced To Travel 500 Miles For Abortion, Report Says," Mississippi Free Press, 29 Nov. 2022; Https://Www.Mississippifreepress.Org/Teen-Mississippi-Rape-Victim-Forced-To-Travel-500-Miles-For-Abortion-Report-Says/

[61] Guttmacher Institute, *Interactive Map: Us Abortion Policies And Access After Roe,* 1 May 2024, https://states.guttmacher.org/policies/ (last accessed on 30 July 2024). The Term "Women of Reproductive Age" Encompassed Women Aged 15-49.

This map represents data from the NYT & KFF on the status of US abortion bans as of July 25, 2024.[62]

At the time of publication of this report:

- **Fourteen states** completely ban abortion: Alabama, Arkansas, Idaho, Indiana, Kentucky, Louisiana, Mississippi, Missouri, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, and West Virginia.[63]
- **Eight states** ban abortion after a specified point in pregnancy that would have been unconstitutional under Roe.[64]
    - **Six weeks:** Florida, Georgia, Iowa. South Carolina.
    - **Twelve weeks:** Nebraska, North Carolina.
    - **Fifteen weeks:** Arizona.
    - **Eighteen weeks:** Utah.
- **28 states and Washington, DC, are more protective of abortion rights and access**: Alaska, California, Colorado, Connecticut, Delaware, Hawaii, Illinois,[65] Kansas, Maine, Maryland, Massachusetts, Michigan Minnesota, Montana,[66] Nevada, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington, Wisconsin, and Wyoming.[67]

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[62] Allison McCann and Amy Schoenfeld Walker, "Tracking Abortion Bans Across the Country," New York Times, last visited 29 July 2024, https://www.nytimes.com/interactive/2024/us/abortion-laws-roe-v-wade.html; KFF, *Policy Tracker: Exceptions to State Abortion Bans and Early Gestational Limits*, last updated 29 July 2024; https://www.kff.org/womens-health-policy/dashboard/exceptions-in-state-abortion-bans-and-early-gestational-limits/.

[63] The New York Times, "Tracking Abortion Bans Across The Country," 1 April 2024, Nytimes.Com/Interactive/2022/Us/Abortion-Laws-Roe-V-Wade.Html; KFF, *Policy Tracker: Exceptions to State Abortion Bans and Early Gestational Limits,* last updated 29 July 2024; https://www.kff.org/womens-health-policy/dashboard/exceptions-in-state-abortion-bans-and-early-gestational-limits/

[64] The New York Times, "Tracking Abortion Bans Across The Country," 1 April 2024, Nytimes.Com/Interactive/2022/Us/Abortion-Laws-Roe-V-Wade.Html; KFF, *Policy Tracker: Exceptions to State Abortion Bans and Early Gestational Limits*, last updated 29 July 2024; https://www.kff.org/womens-health-policy/dashboard/exceptions-in-state-abortion-bans-and-early-gestational-limits/

[65] In 2023, An Iowa District Court Blocked An Abortion Ban After Six Weeks Of Pregnancy And The Iowa Supreme Court Kept A Nearly Identical Six-Week Ban From 2018 Permanently Blocked. ACLU Iowa, "A Timeline Of Abortion Rights In Iowa," September 2023, Aclu-Ia.Org/En/Timeline-Abortion-Rights-Iowa; The New York Times, "Tracking Abortion Bans Across The Country," 1 April 2024, Nytimes.Com/Interactive/2022/Us/Abortion-Laws-Roe-V-Wade.Html; KFF, *Policy Tracker: Exceptions to State Abortion Bans and Early Gestational Limits*, last updated 29 July 2024; https://www.kff.org/womens-health-policy/dashboard/exceptions-in-state-abortion-bans-and-early-gestational-limits/

[66] Planned Parenthood, "Montana Court Blocks New Abortion Ban," 18 May 2023, Plannedparenthood.Org/About-Us/Newsroom/Press-Releases/Montana-Court-Blocks-New-Abortion-Ban (The Montana Legislature Passed 10 Anti-Abortion Laws In 2023. However, These Have Been Blocked By The Courts. The Montana Supreme Court Has Ruled That The State Constitution Protects The Right To Abortion.); The New York Times, "Tracking Abortion Bans Across The Country," 1 April 2024, Nytimes.Com/Interactive/2022/Us/Abortion-Laws-Roe-V-Wade.Html; KFF, *Policy Tracker: Exceptions to State Abortion Bans and Early Gestational Limits*, last updated 29 July 2024; https://www.kff.org/womens-health-policy/dashboard/exceptions-in-state-abortion-bans-and-early-gestational-limits/

[67] In 2023, Courts In Wyoming Blocked An Abortion Ban And A Law That Banned The Use Of Abortion Pills. The New York Times, "Wyoming Judge Temporarily Blocks The State's New Abortion Ban," 22 March 2023, Nytimes.Com/2023/03/22/Health/Wyoming-Abortion-Ban.Html; The New York Times, "Tracking Abortion Bans Across The Country," 1 April 2024, Nytimes.Com/Interactive/2022/Us/Abortion-Laws-Roe-V-Wade.Html; KFF, *Policy Tracker: Exceptions to State Abortion Bans and Early Gestational Limits*, last updated 29 July 2024; https://www.kff.org/womens-health-policy/dashboard/exceptions-in-state-abortion-bans-and-early-gestational-limits/

1.2 PRE-EXISTING OBSTACLES TO CARE

As mentioned above, pregnant individuals faced a wide range of obstacles to abortion care before the new bans and restrictions came into force, and these persist today even in states where abortion remains legal. Such obstacles include lack of affordability and lack of insurance coverage,[68] parental or third-party consent requirements, unregulated or inadequately regulated refusals by health providers to provide lawful abortion services,[69] mandatory counselling requirements,[70] mandatory waiting periods,[71] and information barriers.[72]

These difficulties are severely exacerbated by the new abortion laws, which have overseen further diminishing access to care, increasing levels of stigma and shame, and deepening disparate impacts on the most disadvantaged communities.

SHEILA, MISSISSIPPI **Name changed for privacy purposes*

Shiela* got pregnant when her hormonal birth control implant expired, and she could not afford a new one. She tried to get an abortion from the Jackson Women's Health Organization, Mississippi, the month after Dobbs was decided. However, the clinic had been forced to close. Sheila could not afford to travel out of state for an abortion. She later gave birth and brought her baby home, knowing she had no help paying for childcare and that there was no way that she could go back to work.[73]

Multiple federal and state restrictions on coverage for abortion, even in states where abortion is not prohibited, significantly impede access to abortion services for the people least able to afford them. For example, the federal Hyde Amendment, in effect

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[68] See For Example, CEDAW Committee, Concluding Observations: Costa Rica, Un Doc. CEDAW/C/Cri/Co/7 (2017); Hungary, Un Doc. CEDAW/C/Hun/Co/7-8 (2013); See Also Human Rights Committee, Concluding Observations: Pakistan, Un Doc. CCPR/C/Pak/Co/1 (2017); Ghana, CCPR/C/Gha/Co/1 (2016); See Also CRC Committee, Concluding Observations: Slovakia, Un Doc. CRC/C/Svk/Co/3-5 (2016).

[69] See For Example CEDAW Committee, Concluding Observations: Romania, Un Doc. Cedaw/C/Rou/Co/7-8 (2017); Italy, Un Doc. Cedaw/C/Ita/Co/7 (2017); Peru, Un Doc. Cedaw/C/Per/Co/7-8 (2014); Poland, Un Doc. Cedaw/C/Pol/Co/7-8 (2014); Poland, Un Doc. Cedaw/C/Pol/Co/6 (2007); Slovakia, Un Doc. Cedaw/C/Svk/Co/4 (2008); Slovakia, Un Doc. Cedaw/C/Svk/Co/5-6 (2015). See Also CRC Committee, Slovakia, Un Doc CRC/C/Svk/Co/3-5 (2016). See Also CESCR Committee, Concluding Observations: Italy, Un Doc. E/C.12/Ita/Co/5 (2015), Romania, Un Doc. E/C.12/Rou/Co/3-5 (2014); Poland, Un Doc. E/C.12/Pol/Co/6 (2016), Poland, Un Doc. E/C.12/Pol/Co/5 (2009). See Also Human Rights Committee, Concluding Observations: Argentina, Un Doc. CCPR/C/Arg/Co/5 (2016), Poland, Un Doc. CCPR/C/Pol/Co/6 (2010). See Also Cat Committee, Concluding Observations: Bolivia, Un Doc. Cat/C/Bol/Co/2 (2013); Poland, Un Doc. Cat/C/Pol/Co/5- 6 (2013). See Also Human Rights Committee, General Comment 36 (Article 6: Right To Life), Un Doc. CCPR/C/Gc/36 (2019), Para. 8.

[70] See CEDAW Committee, Concluding Observations: Hungary, Un Doc. CEDAW/C/Hun/Co/7-8 (2013); Russian Federation, Un Doc. CEDAW/C/Rus/Co/8 (2015).

[71] See CEDAW Committee, Concluding Observations: Hungary, Un Doc. CEDAW/C/Hun/Co/7-8 (2013); Russian Federation, Un Doc. CEDAW/C/Rus/Co/8 (2015).

[72] See CESCR Committee, General Comment 14 (Right to Health), Un Doc. E/C.12/2000/4 (2000), Para. 34. See Also CESCR General Comment 22, On the Right to Sexual and Reproductive Health (Article 12 Of The ICESCR), Un Doc. E/C.12/Gc/22 (2016), Para. 34.

[73] Laura Clawson, "Mississippi's Culture Of Cruelty Shows Itself Again And Again Post-Dobbs," Daily Kos, 20 Aug. 2023, Https://Www.Dailykos.Com/Stories/2023/8/20/2187206/-Mississippi-S-Culture-Of-Cruelty-Shows-Itself-Again-And-Again-Post-Dobbs

since 1976, bans the use of federal funds for abortion services,[74] thereby blocking coverage of abortion services for beneficiaries of Medicaid – a government-funded healthcare program that supports low-income individuals.

At its inception, Hyde only allowed federal funding of abortion care costs to save the life of the pregnant person. In 1978, Congress added exceptions that included cases of rape or incest, but like with all abortion ban "exceptions", these exceptions are extremely difficult to access and are rarely, if ever, used. To access the exception in the case of rape or incest, for example, the rape must be "reported promptly" to a law enforcement agency or public health service.[75]

1.3 POST-DOBBS LEGAL ENVIRONMENT

Since the *Dobbs* decision, state abortion law and policy reforms have varied widely, with some states protecting abortion care, some states banning abortion, and many falling somewhere in between.[76]

Various states have adopted measures to expand or preserve access to abortion by recognizing the right to abortion within their constitutions, ballot measures, or enacting state laws that protect access to abortion care.[77] Other states have taken measures to restrict access to abortion. In April 2024, for example, the Florida Supreme Court ruled that the state constitution's privacy protections do not extend to abortion.[78]

Restrictive state legislation adopted in the post-*Dobbs* legal environment has extended beyond abortion services to, in some cases, criminalizing individual abortion providers, those traveling out of state to obtain abortion care, or anyone assisting someone in a state with an abortion ban to travel to receive abortion care in another state.[79] In Texas, for example, private citizens can sue abortion providers and those who assist patients seeking abortion care.[80] The Idaho legislature has recently introduced a new offence of

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[74] KFF, *The Hyde Amendment And Coverage For Abortion Services Under Medicaid In The Post-Roe Era*, 14 March 2024, Kff.Org/Womens-Health-Policy/Issue-Brief/The-Hyde-Amendment-And-Coverage-For-Abortion-Services-Under-Medicaid-In-The-Post-Roe-Era/#:~:Text=Starting%20in%201977%2c%20the%20hyde,Result%20from%20rape%20or%20incest

[75] Congressional Research Service, *The Hyde Amendment: A Overview,* 20 July 2022, Https://Crsreports.Congress.Gov/Product/Pdf/If/If12167

[76] Guttmacher Institute, *Interactive Map: Us Abortion Policies And Access After Roe*, 25 March 2024, States.Guttmacher.Org/Policies/; United States Senate, *Impacts Of A Post-Roe America: The State Of Abortion Policy After Dobbs*, 1 August 2022, Help.Senate.Gov/Imo/Media/Doc/8.01.2022%20final%20post-Dobbs%20report.Pdf, P. 2.

[77] Guttmacher Institute, *State Policy Trends 2022*, Https://Www.Guttmacher.Org/2022/12/State-Policy-Trends-2022-Devastating-Year-Us-Supreme-Courts-Decision-Overturn-Roe-Leads; Guttmacher Institute, *State Policy Trends 2023*, Https://Www.Guttmacher.Org/2023/12/State-Policy-Trends-2023-First-Full-Year-Roe-Fell-Tumultuous-Year-Abortion-And-Other; Guttmacher Institute, *State Policy Trends 2024*, Https://Www.Guttmacher.Org/2024/06/Midyear-2024-State-Policy-Trends-Many-Us-States-Attack-Reproductive-Health-Care-Other

[78] The New York Times, "Tracking Abortion Bans Across The Country," 1 April 2024, Nytimes.Com/Interactive/2022/Us/Abortion-Laws-Roe-V-Wade.Html; Center For Reproductive Rights, Florida Supreme Court Allows State To Ban Abortion – But Clears Way For A Vote On Abortion Rights, 2 April 2024, Reproductiverights.Org/Florida-Supreme-Court-15-Week-Abortion-Ban-Amendment-4/

[79] Amnesty International, "USA: One Year On, Overturning Of Roe vs. Wade Has Fueled Human Rights Crisis," 24 June 2023, Amnesty.Org/En/Latest/News/2023/06/Usa-Overturning-Roe-Vs-Wade-Fueled-Human-Rights-Crisis/

[80] ACLU, *Supreme Court Ruling Ends Most Abortion In Texas*, 2 September 2021, Aclu.Org/Press-Releases/Supreme-Court-Ruling-Ends-Most-Abortion-Texas (last accessed 30 July 2024; Center For Reproductive Rights *Abortion In Texas*, Reproductiverights.Org/Case/Texas-Abortion-Ban-Us-Supreme-Court/Abortion-In-Texas/ (last accessed 30 July 2024).

"abortion trafficking,"[81] which criminalizes any adult who helps a minor to undergo an abortion in another state without parental consent.

By contrast, several states and Washington, DC, have adopted "shield laws" to protect abortion providers, and in some case patients and support organizations, from investigators from other states.[82]

Abortion services affected by legal bans and restrictions include medication abortion as well as surgical procedures. The US Food and Drug Administration (FDA) approved mifepristone in 2000 for the safe and effective medical termination of pregnancy. Medication abortion currently makes up 63% of all abortions in the US.[83] In 2021, the FDA removed the in-person requirement for obtaining medication abortion and it is now available via telemedicine, making it more accessible to many.[84] Mifepristone and misoprostol in combination or, where mifepristone is unavailable, misoprostol alone, are the recommended medications to induce abortion by the World Health Organization.[85] After the *Dobbs* decision, however, the availability of mifepristone– is impacted by state laws.[86] In the Supreme Court's first abortion-related ruling since *Dobbs*, the court rejected a challenge to the FDA's approval of mifepristone that threatened access to medication abortion for women around the United States.[87]

Abortion laws and policies continue to change quickly and face complicated court challenges, creating a culture of uncertainty for individuals seeking abortion care. According to the Brennan Center for Justice, as of 11 January 2024, a total of 40 cases had been filed challenging abortion bans in 23 states, of which 22 remained pending at either the trial or appellate levels.[88]

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[81] House Bill 242 – Idaho State Legislature, https://legislature.idaho.gov/sessioninfo/2023/legislation/H0242/, (last accessed 30 July 2024).

[82] The New York Times, "Tracking Abortion Bans Across The Country," 1 April 2024, https://www.nytimes.com/interactive/2024/us/abortion-laws-roe-v-wade.html (California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, Pennsylvania, Rhode Island, Vermont, Washington and Washington, DC.

[83] Guttmacher Institute, *Medication Abortion Accounted For 63% Of All Us Abortions In 2023—An Increase From 53% In 2020* (March 2024), Https://Www.Guttmacher.Org/2024/03/Medication-Abortion-Accounted-63-All-Us-Abortions-2023-Increase-53-2020

[84] Guttmacher Institute, *Medication Abortion Accounted For 63% Of All Us Abortions In 2023—An Increase From 53% In 2020* (March 2024), Https://Www.Guttmacher.Org/2024/03/Medication-Abortion-Accounted-63-All-Us-Abortions-2023-Increase-53-2020

[85] World Health Organization, *Medical Management Of Abortion Guidelines*, Https://Cdn.Who.Int/Media/Docs/Default-Source/Reproductive-Health/Abortion/Summary-Chart-Medical-Management-Abortion.Pdf?Sfvrsn=C735d28a_4.

[86] KFF, The Availability And Use Of Medication Abortion, 20 March 2024, Kff.Org/Womens-Health-Policy/Fact-Sheet/The-Availability-And-Use-Of-Medication-Abortion/

[87] United States Supreme Court, *Food and Drug Administration et al. v. Alliance for Hippocratic Medicine*, 13 June 2024https://www.supremecourt.gov/opinions/23pdf/23-235_n7ip.pdf

[88] Brennan Center For Justice, *State Court Abortion Litigation Tracker*, 11 January 2024, Brennancenter.Org/Our-Work/Research-Reports/State-Court-Abortion-Litigation-Tracker (last accessed 30 July 2024).

2. FORCED TRAVEL OUT-OF-STATE FOR ABORTION CARE

ANONYMOUS, OKLAHOMA

A teenage girl in Oklahoma was shocked to find out that she was 20 weeks pregnant in a state where abortion is now almost entirely illegal. She started researching abortion clinics after her father went to sleep that night. She realized she would have to drive three hours to Kansas or eight hours to New Mexico. Given that she was 20 weeks pregnant, she would need a surgical procedure, which would cost over $1,000, as well as the price of a hotel and gas. Her job at a sandwich shop paid $9.25 an hour. The girl started to panic when she realized that Kansas wasn't an option. She couldn't get an appointment for two to three weeks, putting her beyond the state's 22-week limit. She was relieved when a New Mexico clinic reached out with an open appointment the following week. The girl and her father drove to New Mexico to get the surgical procedure after receiving funding from an abortion fund.[89]

Even before the *Dobbs* decision, millions of people in the United States faced obstacles to abortion care due to financial constraints, language barriers, lack of paid sick days, lack of affordable childcare and many other issues. Now, total abortion bans in some states and severe restrictions in others mean they have little or, more likely, no chance of accessing abortion services in their home state.

[89] Caroline Kitchener, "The Abortion Diaries: Pregnant And Desperate In Post Roe America," The Washington Post, 1 December 2022, Https://Www.Washingtonpost.Com/Politics/Interactive/2022/Pregnant-Post-Roe-America-Abortion/

"It's not only the harm of not being able to get care in your community, but these restrictions create really intense trauma for patients. To be denied care, to have to travel to receive care, to have to jump through all these hoops – it traumatizes patients."

– Dr. Ghazaleh Moayedi[90]

A sign welcoming patients from East Texas in the waiting area of the Women's Reproductive Clinic, which provides legal medication abortion services, in Santa Teresa, New Mexico. (Robyn Beck/AFP via Getty Images)

In the first 15 months after *Dobbs*, an estimated 120,000 people in states with the most severe restrictions were denied the right to have the abortion they needed in their own state.[91] However, data shows that the total number of abortions across the United States has not decreased. Instead, individuals are forced to travel out of state to receive abortion care.[92] As Maleeha Aziz from the Texas TEA Fund, which provides financial support to those seeking abortion, told Amnesty International, "when you ban abortion, the need for abortion doesn't change; it just makes people afraid."[93]

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[90] Amnesty International Interview with Dr. Ghazaleh Moayedi, Texas, 26 October 2023.

[91] Society Of Family Planning, *We Count Report April 22 - September 2023,* 24 Feb. 2024, Societyfp.Org/Wp-Content/Uploads/2024/02/Sfpwecountpublicreport_2.28.24.Pdf; Dickman SI, White K, Grossman D, *Affordability And Access To Abortion Care In The United States,* Jama Intern Med (September 2021);181(9):1157, Https://Pubmed.Ncbi.Nlm.Nih.Gov/34279547/; Higgins Ja, Lands M, Valley Tm, Carpenter E, Jacques L, *Real-Time Effects Of Payer Restrictions On Reproductive Healthcare: A Qualitative Analysis Of Cost-Related Barriers And Their Consequences Among US Abortion Seekers On Reddit*, Ijerph (September 2021);18(17):9013, Ncbi.Nlm.Nih.Gov/Pmc/Articles/Pmc8430941/; Bell So, Stuart Ea, Gemmill A, *Texas' 2021 Ban On Abortion In Early Pregnancy And Changes In Live Births,* Jama (29 June 2023);330(3):28; Jamanetwork.Com/Journals/Jama/Fullarticle/2806878.

[92] Guttmacher Institute, *Despite Bans, Number Of Abortions In The United States Increased In 2023*, 19 March 2024, Guttmacher.Org/2024/03/Despite-Bans-Number-Abortions-United-States-Increased-2023.

[93] Amnesty International Interview with Maleeha Aziz, TEA Fund, Texas, 16 October 2023.

In such circumstances, often-desperate individuals are forced to travel to another state to obtain care; the only other options being to self-manage an abortion or carry a forced pregnancy to term.[94] The options are not only stark but often extremely difficult to resolve. The same barriers that impeded access to care in their home state can now make the challenge of finding and travelling to a different state for treatment overwhelming or impossible. Nonetheless, many thousands are using every resource they have to facilitate the journey.

According to research by the Guttmacher Institute, "the proportion of patients traveling to other states to obtain abortion care has doubled in recent years, reaching nearly one in five in the first half of 2023, compared to one in ten in 2020."[95] In 2023, over 160,000 pregnant individuals traveled to another state to receive abortion care.[96]

LAURA, IDAHO ***Name changed for privacy purposes**

Laura* found out that her 12-week-old developing fetus likely had Turner syndrome, a chromosomal abnormality that often ends in miscarriage. Idaho bans nearly all abortions, with very narrow exceptions in cases of rape or incest or if the life of the pregnant person is at risk. Laura had two options: (1) continue to carry the pregnancy knowing that it would almost certainly end in miscarriage or stillbirth and would jeopardize her own health in the process; or (2) travel out of state to receive abortion care. Laura made the decision to travel from Idaho to Oregon to receive an abortion. Laura told news outlets, "They make this out to be like people that seek abortions are horrible, horrible people, and murderers, and all this stuff, and I'm like, that could not be further from the truth. This is a baby that we love with all of our heart and soul. And because we are loving parents, we are choosing this route, not only to be loving parents to that baby, but also to our living son, because I have to think about what's in my best interest so that I can still be here and be healthy enough to take care of my son who needs me."[97]

Not surprisingly, people forced to travel to find abortion care will typically try to find

[94] Society Of Family Planning, *We Count Report April 22 - September 2023,* 24 Feb. 2024, Societyfp.Org/Wp-Content/Uploads/2024/02/Sfpwecountpublicreport_2.28.24.Pdf; Dickman SI, White K, Grossman D, *Affordability And Access To Abortion Care In The United States,* JAMA Intern Med, September 2021;181(9):1157, Https://Pubmed.Ncbi.Nlm.Nih.Gov/34279547/; Higgins Ja, Lands M, Valley Tm, Carpenter E, Jacques L, *Real-Time Effects Of Payer Restrictions On Reproductive Healthcare: A Qualitative Analysis Of Cost-Related Barriers And Their Consequences Among US Abortion Seekers On Reddit*, Intl. Journ. Environ. Res. Public Health, September 2021;18(17):9013, Ncbi.Nlm.Nih.Gov/Pmc/Articles/Pmc8430941/; Bell So, Stuart Ea, Gemmill A, *Texas' 2021 Ban On Abortion In Early Pregnancy And Changes In Live Births,* JAMA, 29 June 2023;330(3):28; Jamanetwork.Com/Journals/Jama/Fullarticle/2806878

[95] Guttmacher Institute, *The High Toll Of Us Abortion Bans: Nearly One In Five Patients Now Travelling Out Of State For Abortion Care*, December 2023, Guttmacher.Org/2023/12/High-Toll-Us-Abortion-Bans-Nearly-One-Five-Patients-Now-Traveling-Out-State-Abortion-Care

[96] Guttmacher Institute, *Despite Bans, Number Of Abortions In The United States Increased In 2023*, 19 March 2024, Guttmacher.Org/2024/03/Despite-Bans-Number-Abortions-United-States-Increased-2023

[97] Idaho Capital Sun, "Her Fetus Had 1% Chance of Survival. Idaho's Ban Forced Her to Travel For An Abortion.", 10 May 2023, Idahocapitalsun.Com/2023/05/10/Her-Fetus-Had-1-Chance-Of-Survival-Idahos-Ban-Forced-Her-To-Travel-For-An-Abortion/

care in the nearest possible state, but this can be problematic. Research by the Guttmacher Institute on individuals traveling out of state for abortions found large increases in patients traveling to states that border those with abortion bans and minimal increases in people traveling to states in regions of the country where abortion access remains largely protected.[98]

When a state bordering a state with an abortion ban also bans the procedure, access to abortion becomes even more difficult. The harm of abortion bans is therefore amplified in certain parts of the US, such as the southeast, where most states have implemented bans or severe restrictions on abortion care.

Individuals interviewed by Amnesty International indicated that pregnant people in Texas are travelling to New Mexico, Colorado and Kansas for abortion care – and if they are unable to secure appointments in those states, they are forced to travel even further.[99] Staff at two abortion clinics in Illinois report that the majority of their patients are from out-of-state and that it is not uncommon for them to receive patients from seven to nine different states in one day.[100]

OUT-OF-STATE STATISTICS IN THREE SAMPLE STATES

- ILLINOIS: Abortions provided to out-of-state patients increased from 21% in 2020 to 41% in 2023. There were an estimated 38,300 more abortions in 2023 than in 2020, and increased travel from out of state accounted for 68% of the overall increase in abortions.[101]
- KANSAS: Abortions provided to out-of-state patients increased from 52% in 2020 to 71% in 2023. There were an estimated 9,300 more abortions in 2023 than in 2020, and increased travel from out of state accounted for 89% of the overall increase in abortions.[102]
- NEW MEXICO: Abortions provided to out-of-state patients increased from 38% in 2020 to 69% in 2023. There were an estimated 15,100 more abortions in 2023 than in 2020, and increased travel from out of state accounted for 81% of the overall increase in abortions.[103]

[98] Guttmacher Institute, *The High Toll Of Us Abortion Bans: Nearly One In Five Patients Now Travelling Out Of State For Abortion Care*, December 2023, Guttmacher.Org/2023/12/High-Toll-Us-Abortion-Bans-Nearly-One-Five-Patients-Now-Traveling-Out-State-Abortion-Care; Northwest Public Broadcasting, "Idaho Abortion Patients Traveling To WA Increased More than 50 Percent After Dobbs," 6 July 2023, Nwpb.Org/2023/07/06/Idaho-Abortion-Paidaho-Abortion-Patients-Traveling-To-Wa-Increased-More-Than-50-Percent-After-Dobbs/

[99] Amnesty International Interview with Cathy Torres, Frontera Fund, Via Zoom, 12 October 2023; Amnesty International Interview with Laura Molinar and Yaneth Flores, Avow Texas, 12 October 2023.

[100] Amnesty International Interview with Andrea Gallegos, Alamo Women's Clinic, Carbondale, Il, 6 December 2023; Amnesty International Interview with Marie, Choices Clinic, Carbondale, Il, 2 December 2023.

[101] Guttmacher Institute, *Monthly Abortion Provision Study*, Guttmacher.Org/Monthly-Abortion-Provision-Study.

[102] Guttmacher Institute, *Monthly Abortion Provision Study*, Guttmacher.Org/Monthly-Abortion-Provision-Study.

[103] Guttmacher Institute, *Monthly Abortion Provision Study*, Guttmacher.Org/Monthly-Abortion-Provision-Study.

2.1 STRUGGLE TO FIND ABORTION CARE WITHIN GESTATIONAL LIMITS OF DIFFERENT STATES

Six weeks into a pregnancy, many people do not even know they are pregnant. Yet at six weeks and one day in Florida, Georgia and South Carolina, the door to abortion access slams shut. Those in need of abortion care who are able to secure the means – and, in some cases, the necessary permission from an employer – to travel, must then try to reach a state that will provide treatment before it is too late.

Even with longer gestational limits, depending on when a person finds out they are pregnant and where they live, there may not be sufficient time to make a decision, find and access abortion care in line with a state's restrictions, and get the procedure. (See abortion access map on page 32.

> **"People don't feel like they have time to make a decision. If they don't decide right now that they want the abortion, they could miss the window, so there's this additional pressure around the decision that compromises their ability to make the decision."**
> ***– Dr. Ghazaleh Moayedi[104]***

SARA, GEORGIA **Name changed for privacy purposes*

Already a mother of three young children, 31-year-old Sara* was not in a position to afford another child. At a clinic in her home state of Georgia, she learned that she was about six weeks and two days pregnant; two days over the state's six-week gestational limit for abortion procedures. Sara was fortunate to get an appointment for a procedure one week later at a clinic four and a half hours' drive away, in Charlotte, North Carolina. Weeks after her appointment, North Carolina implemented a twelve-week gestational limit.[105] Had Sara learned a little later of her pregnancy, or had she been forced to wait a little longer for her appointment, she may not have been able to access abortion care in Charlotte. Her next nearest state, Florida, now bans abortion after six weeks' gestation.

The pressure for pregnant individuals to understand their abortion options and act within the gestational limits imposed in their own state or elsewhere is greatly aggravated by repeated, confusing changes to laws and policies governing access to abortion care. Interviews by Amnesty International indicated that people living in states with abortion bans may think that those bans apply throughout the country or do not

[104] Amnesty International Interview with Dr. Ghazaleh Moayedi, TX, 26 October 2023.
[105] The 19th, "North Carolina Was an Abortion Haven. With Its New 12-Week Ban, The Protection Will Vanish", 27 June 2023, 19thnews.Org/2023/06/North-Carolina-12-Week-Abortion-Ban-Regional-Access/

know that they can travel to another state to have an abortion.[106]

> **"People are navigating healthcare in a vacuum of misinformation. The problem is that laws are changing all the time."**
> *- Dr. Joey Banks, Abortion Provider[107]*

2.2 SOCIO-ECONOMIC DETERMINANTS OF ABILITY TO TRAVEL

The ability to find and travel to an abortion clinic in another state is dependent on finances, family obligations, job security or flexibility for taking time off, and the ability to arrange childcare, among other factors.[108] Both financial and logistical barriers create delays complicating access to abortion care.[109]

According to staff at the Choices Clinic in Illinois, travel and money are the many issues that come up when scheduling appointments for abortion procedures.[110] Kari White, a researcher at the University of Texas, told Amnesty International that, "people are calling a dozen clinics trying to figure out who can see them first, can they afford to get there, can they afford childcare?"[111]

> **"People are scraping by to get [to the clinic]. Some people will spend all of their money to get here."**
> *- Maris Thornton, Staff, Choices Clinic[112]*

Abortion provider Dr. Joey Banks told Amnesty International that, in her experience, even where a patient has support and funding, they may end up keeping the pregnancy because of the additional burdens of needing time off to travel, childcare, and other factors if the abortion procedure cannot take place during the patient's first visit to the clinic.[113]

Dr. Banks shared the story of a patient who had traveled to a clinic in Illinois and had

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[106] Amnesty International Interview with staff at The Afiya Center, Texas, 6 November 2023; Amnesty International Interview with Jessica Torres Macia, TEA Fund, TX 24 October 2023; Amnesty International Interview with Dr. Joey Banks, Alamo Women's Clinic, Carbondale, Il, 6 December 2023; Amnesty International Interview with Marie, Choices Clinic, Carbondale, Il, 2 December 2023; Interview with Abortion Access Missouri, St. Louis, Mo, 7 December 2023.

[107] Amnesty International Interview with Dr. Joey Banks, Alamo Women's Clinic, Carbondale, Il, 6 December 2023.

[108] Amnesty International Interview with Blake Rocap, Janes Due Process, Austin, Tx, 13 October 2023.

[109] Amnesty International Interview with Maris Thornton, Choices Clinic, Carbondale, Il, 5 December 2023; Amnesty International with Dr. Joey Banks, Alamo Women's Clinic, Carbondale, Il, 6 December 2023; Amnesty International Interview with Andrea Gallegos, Alamo Women's Clinic, Carbondale, Il, 6 December 2023; Amnesty International Interview with Marie, Carbondale, Il, 2 December 2023; Amnesty International Interview with Jordis Mills, Alamo Women's Clinic, Carbondale, Il, 6 December 2,

[110] Amnesty International Interview with Maris Thornton, Choices Clinic, Carbondale, Il, 5 December 2023.

[111] Amnesty International Interview with Kari White, researcher formally at UT Austin, now with Resound Research for Reproductive Health, TX, 17 October 2023.

[112] Amnesty International Interview with Maris Thornton, Choices Clinic, Carbondale, Il, 5 December 2023.

[113] Amnesty International Interview with Dr. Joey Banks, Alamo Women's Clinic, Carbondale, Il, 6 December 2023.

placenta accreta, a potentially life-threatening condition where the placenta grows into the uterine wall. In order to get the care necessary, the patient was referred to a surgical center in Chicago and meant that the abortion could not be performed on the same day. The patient, who had driven over six hours to reach the clinic and had two kids at home, told Dr. Banks, "I don't have any money. I can't take another day off work for over a month. Who will take care of my kids if I have to travel to Chicago?"[114]

A study conducted by the University of California San Francisco compared individuals who were able to access abortion care with those who were unable to do so. The study found that those who were forced to carry their pregnancies to term were more likely to not be working, have limited economic resources, have stopped schooling, and be in debt.[115]

> **"Geography becomes another part of the privilege which is just tragic. What makes me concerned is how many people can't make it [to a clinic]."**
> *- Andrea Gallegos, Alamo Women's Clinic[116]*

These and other socio-economic realities mean that not everyone is able to travel to access abortion care, even when it is made available.[117] This lack of options can lead to compromised life choices, hardship or, often, tragic consequences.

KIM, MISSISSIPPI **Name changed for privacy purposes*

Kim* became pregnant when she was raped at the age of 12. Abortion is banned in Kim's home state of Mississippi, as well as in the surrounding states of Louisiana, Arkansas, Tennessee and Alabama. While Mississippi's abortion ban includes narrow exceptions, including for survivors of rape, the new restrictions have driven abortion providers out of the state, with none now remaining. Kim's mother was told by an OB-GYN that the closest abortion provider was in Chicago, a nine-hour car trip away. Travelling there – taking time off work, finding money to pay for gas, food and a place to stay as well as the abortion procedure itself – was not an option for Kim's mother. Therefore, Kim was forced to stay in Mississippi and give birth, as a child in sixth grade.[118]

Abortion providers interviewed by Amnesty International indicated that the fact that a person is receiving abortion care out-of-state may also impact the type of care they choose to receive. Staff at the Choices Clinic in Illinois indicated that many out-of-state patients choose a surgical procedure even if they could have a medication abortion

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[114] Amnesty International Interview with Dr. Joey Banks, Alamo Women's Clinic, Carbondale, Il, 6 December 2023.
[115] Diana Greene Foster, *The Harms Of Denying A Woman A Wanted Abortion – Findings From The Turnaway Study*, Ansirh.Org/Sites/Default/Files/Publications/Files/The_Harms_Of_Denying_A_Woman_A_Wanted_Abortion_4-16-2020.Pdf.
[116] Amnesty International Interview with Andrea Gallegos, Alamo Women's Clinic, Carbondale, Il, 6 December 2023.
[117] Amnesty International Interview with Andrea Gallegos, Alamo Women's Clinic, Carbondale, Il, 6 December 2023; Amnesty International Interview with Abortion Access Missouri, St. Louis, Mo, 7 December 2023.
[118] Time, "She Wasn't Able to Get An Abortion. Now She's a Mom. Soon She'll Start 7th Grade," 14 August 2023, Time.Com/6303701/A-Rape-In-Mississippi/.

(which is a two-step regimen) so that they do not have to return to the clinic for a follow-up appointment or so that they do not have to worry about taking abortion medication into a state that has an abortion ban. However, surgical abortions, while safe and effective, are more expensive.[119] A person should be able to receive the type of abortion care that is best for them free from fear or stigma.

The disparate impact of abortion bans and restrictions on people from especially disadvantaged groups is discussed in more detail in Chapter 6.

2.2.1 TRAVEL ACCESS THREATENED BY ABORTION FUND PRESSURES

Abortion funds, logistical support networks, and other initiatives have stepped in to fill the gaps created by abortion bans and gaps in healthcare and social support systems by assisting pregnant individuals in overcoming financial and logistical obstacles to travel to receive abortion care.[120] They provide financial support, transportation, childcare, translation services, and accommodation – among other services and types of support.[121] These funds and initiatives work to fill a critical gap in access to abortion made even more extreme by state laws banning or restricting abortion.

Taken from the National Network of Abortion Funds (NNAF) at www.abortionfunds.org

Data released by the National Network of Abortions Funds (NNAF) demonstrates that in the year following the *Dobbs* decision, abortion funds reported a 39% increase in requests for support to access abortion.[122] The same data shows that donations to abortion funds increased immediately following *Dobbs;* however, donations have

[119] Amnesty International Interview with Marie, Carbondale, Il, 2 December 2023; Amnesty International Interview with Jessica Torres Macia, TEA Fund, Texas, 24 October 2023.
[120] Guttmacher Institute, *Despite Bans, Number Of Abortions In The United States Increased In 2023*, 19 March 2024, Guttmacher.Org/2024/03/Despite-Bans-Number-Abortions-United-States-Increased-2023; Amnesty International Interview with Cathy Torres, Frontera Fund, Via Zoom, 12 October 2023.
[121] Amnesty International Interview with Cathy Torres, Frontera Fund, Via Zoom, 12 October 2023; Amnesty International Interview with Alison Dreith, Midwest Access Coalition, Collinsville, Il, 8 December 2023.
[122] National Network Of Abortion Funds, *New Data Highlights Critical Role Of Abortion Funds In A Post-Roe America,* 17 January 2024, Abortionfunds.Org/Wp-Content/Uploads/2024/01/Nnaf_Roe-Anniversary-Press-Release_1.9.23-1.Pdf.

gradually decreased over time, even though the need for support continues to grow.[123] While abortion funds and support networks are largely responsible for ensuring that people are able to travel to receive abortion care, the model is not sustainable without large shifts in financial support.[124]

> **"It's unsustainable and it shouldn't have to be this way. We're going to have to reimagine abortion justice."**
> *- Alison Dreith, Midwest Access Coalition[125]*

2.3 TRAUMA OF TRAVELLING OUT-OF-STATE FOR AN ABORTION

A study published by the international reproductive healthcare journal *Contraception* found that pregnant people who were forced to travel for abortion care described it as "emotionally burdensome, causing distress, stress, anxiety and shame."[126] According to the study, "[b]ecause they had to travel, they were compelled to disclose their abortion to others and obtain care in an unfamiliar place and away from usual networks of support, which engendered emotional costs. Additionally, travel induced feelings of shame and exclusion because it stemmed from a law-based denial of in-state abortion care, which some experienced as marking them as deviant or abnormal."[127]

At the same time, patients from states with abortion bans are often worried that any support they receive could be traced and potentially used to criminalize them, which impacts their decision and ultimately their ability to access abortion care.[128] Moreover, in some states abortion funds have also been put in legal limbo because of vague or changing laws.

Staff at the Choices Clinic in Illinois shared the story of a patient who arrived from Tennessee by bus in the middle of the night. While the clinic had provided the patient with financial support to travel to Carbondale, she found herself in a strange city, and ended up walking around Carbondale all night. When she showed up at the clinic for her appointment, she was in a state of shock. Marie, a staff member at Choices Clinic, shared, "I can only imagine how scared she was. How stressed she was from the travel

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[123] National Network Of Abortion Funds, *New Data Highlights Critical Role Of Abortion Funds In A Post-Roe America*, 17 January 2024, Abortionfunds.Org/Wp-Content/Uploads/2024/01/Nnaf_Roe-Anniversary-Press-Release_1.9.23-1.Pdf

[124] Guttmacher Institute, *The High Toll Of Us Abortion Bans: Nearly One In Five Patients Now Travelling Out Of State For Abortion Care*, December 2023, Guttmacher.Org/2023/12/High-Toll-Us-Abortion-Bans-Nearly-One-Five-Patients-Now-Traveling-Out-State-Abortion-Care

[125] Amnesty International Interview with Alison Dreith, Director Of Strategic Partnerships, Midwest Access Coalition – 8 December 2024.

[126] Kimport & Palupy Rasidjan, *Exploring The Emotional Costs Of Abortion Travel In The United States Due To Legal Restriction*, Contraception, 9 January 2023, Contraceptionjournal.Org/Action/Showpdf?Pii=S0010-7824%2823%2900009-4, P. 1.

[127] Kimport & Palupy Rasidjan, *Exploring The Emotional Costs Of Abortion Travel In The United States Due To Legal Restriction*, Contraception, 9 January 2023, Contraceptionjournal.Org/Action/Showpdf?Pii=S0010-7824%2823%2900009-4, P. 1.

[128] Amnesty International Interview with Marie, Choices Clinic, Carbondale, Il, 2 December 2023.

and from being alone in a different state."[129]

For so many, the decision to terminate a pregnancy arises after unexpected and deeply traumatic experiences regarding the health of the pregnant individual or the fetus. To this baseline trauma is now added the denial of treatment in one's home state and the stress of undertaking a journey in search of appropriate care.

KAY, OKLAHOMA **Name changed for privacy purposes*

When Kay* was 14 weeks pregnant, she woke up covered in blood. She found out she had a blood clot. Her pregnancy became even more complicated when, at her 20-week ultrasound, she found out that her fetus had anencephaly, meaning that it had no skull or brain. Most babies born with anencephaly die shortly after birth. Abortion is totally banned in Oklahoma. Kay's doctors told her that if she decided to terminate the pregnancy, she would not be able to do so in Oklahoma. The state's strict abortion laws forced her to travel 600 miles to receive care in New Mexico. Kay told a local news outlet: "[i]t's already such a scary situation to be in, and then you add in this layer with laws that were seemingly drafted without women in mind."[130]

2.4 IMPACT OF FORCED TRAVEL ON ABORTION SERVICE PROVISION

Total abortion bans and other severe restrictions to abortion services have forced abortion providers to leave their home clinics and travel to states with more liberal provision if they are to continue providing care.[131] Dr. Ghazaleh Moayedi, an abortion provider from Texas, told Amnesty International, "I travel to Kansas and the patient has come to Kansas but we're both from Dallas [Texas]. It's asinine, pointless and cruel."[132]

By definition, abortion bans and restrictions changed the nature of provision offered by many established healthcare providers. For example, one Tennessee clinic who spoke with Amnesty International had planned on providing comprehensive sexual and reproductive care – including abortions. However, following the ban on abortions in Tennessee, this is no longer possible.[133]

Restrictions on abortion care can increase the risk of violence for pregnant individuals who are exposed to intimate partner violence. Studies have revealed that many victims of domestic violence seek abortions to prevent further abuse. [134] The inability to access

[129] Amnesty International Interview with Marie, Choices Clinic, Carbondale, Il, 2 December 2023.
[130] News 9, "'It Was The Only Option': Mother Denied Life-Saving Abortion In Oklahoma Travels Out-Of-State For Care", 20 September 2023, News9.Com/Story/650b5e5f94c5850709745fb9/It-Was-The-Only-Option:-Mother-Denied-Life-Saving-Abortion-In-Oklahoma-Travels-Out-Of-State-For-Care
[131] Amnesty International Interview with Andrea Gallegos, Alamo Women's Clinic, Carbondale, Il, 6 December 2023.
[132] Amnesty International Interview with Dr. Ghazaleh Moayedi, Tx, 26 October 2023.
[133] Amnesty International Interview with Jennifer Pepper, Choices Clinic Memphis, 1 December 2023.
[134] Elizabeth Miller Et Al., Pregnancy Coercion, *Intimate Partner Violence, And Unintended Pregnancy*, 81 Contraception 316, 320 (2010), Https://Www.Ncbi.Nlm.Nih.Gov/Pmc/Articles/Pmc2896047/Pdf/Nihms164544.Pdf;

abortion care could force a pregnant individual to remain with their abusers.[135]

Abortion bans also reduce the quality and availability of other forms of reproductive healthcare, such as contraception, pre- and post-natal care, and preventative annual exams.[136] One reason for this is that the reproductive healthcare clinics that provide this treatment are often financially unable to stay open when abortion services are banned.[137] Some communities are facing reductions in care because their obstetricians have moved or are considering moving to states where abortion is still legal.[138]

Even as abortion clinics in states where abortion remains legal are working to ensure that both in and out-of-state patients are able to access their services, the influx of out-of-state patients naturally places a strain on already limited resources.[139] Moreover,

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See Also Ann M. Moore Et Al., *Male Reproductive Control Of Women Who Have Experienced Intimate Partner Violence In The United States,* 70 Soc. Sci. & Med. 1737, 1737–38 (2010), Https://Www.Guttmacher.Org/Sites/Default/Files/Pdfs/Pubs/Journals/Socscimed201002009.Pdf; Sanctuary For Fams., *Access To Abortion – A Lifeline For Survivors Of Domestic Violence* (24 June 2010); Miller Et Al., p. 316–17; 25,; See Also Am. Coll. Of Obstetricians & Gynecologists, Committee Opinion No. 554: Reproductive And Sexual Coercion,121 Obstetrics & Gynecology 411, 1–2 (2013, Reaffirmed 2022), Https://Www.Acog.Org/-/Media/Project/Acog/Acogorg/Clinical/Files/Committeeopinion/Articles/2013/02/Reproductive-And-Sexual-Coercion.Pdf (Reproductive Coercion Describes A Spectrum Of Conduct Used Primarily To Force Pregnancy, Ranging From Rape To Threats Of Physical Harm To Sabotaging A Partner's Birth Control. Abusers Interfere With Their Partners' Contraceptive Use By Discarding Or Damaging Contraceptives, Removing Prophylactics During Sex Without Consent, Forcibly Removing Internal Use Contraceptives, Or Retaliating Against Their Partners Or Threatening Harm For Contraceptive Use).

[135] United States Supreme Court, *FDA v. Alliance for Hippocratic Medicine. Brief of Amici Curiae*, Legal Voice and National Domestic Violence Hotline et al, at, https://www.supremecourt.gov/DocketPDF/23/23-235/299211/20240130141320136_Amicus%20Brief%20of%20Legal%20Voice%20the%20National%20Domestic%20Violence%20Hotline%20et%20al.pdf (Along With Other Forms Of Coercive Control, Abusers Frequently Use "Reproductive Coercion" And Rape To Force Victims Into Unwanted Pregnancies To Increase Dependency And Make It Harder For The Survivor To Escape.)

[136] Guttmacher Institute, *Restrictions on Contraceptive Services Interfere with People's Ability to Get Care and Use Their Preferred Contraceptive Method, 20 September 2022, https://www.guttmacher.org/news-release/2022/restrictions-contraceptive-services-interfere-peoples-ability-get-care-and-use;* Brookings Institution, *Dobbs, Another Frontline For Health Equity*, 30 June 2022, Brookings.Edu/Articles/Dobbs-Another-Frontline-For-Health-Equity/; CNN, "At Least 43 Abortion Clinics Shut In Month After Supreme Court Overturned Roe, Research Says, With More Likely To Close", 28 July 2022, Edition.Cnn.Com/2022/07/28/Health/Abortion-Clinics-Shut-Guttmacher/Index.Html; Stateline, "Critics Fear Abortion Bans Could Jeopardize Health Of Pregnant Women", 22 June 2022, Stateline.Org/2022/06/22/Critics-Fear-Abortion-Bans-Could-Jeopardize-Health-Of-Pregnant-Women/; Stateline, "New Research Shows State Restrictions Reduce Contraception Use", 22 September 2022, Stateline.Org/2022/09/22/New-Research-Shows-State-Restrictions-Reduce-Contraception-Use/

[137] Human Rights Watch, *Human Rights Crisis: Abortion Rights In The United States After Dobbs*, Hrw.Org/Sites/Default/Files/Media_2023/04/Human%20rights%20crisis%20-%20abortion%20in%20the%20united%20states%20after%20dobbs.Pdf, Para. 20; ABC News, "Abortion Clinics In Embattled States Face Another Challenge: Money", 15 August 2022, Abcnews.Go.Com/Business/Abortion-Clinics-Embattled-States-Face-Challenge-Money/Story?Id=87945089

[138] Human Rights Watch, *Human Rights Crisis: Abortion Rights In The United States After Dobbs*, Hrw.Org/Sites/Default/Files/Media_2023/04/Human%20rights%20crisis%20-%20abortion%20in%20the%20united%20states%20after%20dobbs.Pdf, Para. 20; ABC News, "Abortion Clinics In Embattled States Face Another Challenge: Money",15 August 2022, Abcnews.Go.Com/Business/Abortion-Clinics-Embattled-States-Face-Challenge-Money/Story?Id=87945089

[139] Human Rights Watch, *Human Rights Crisis: Abortion Rights In The United States After Dobbs*, Hrw.Org/Sites/Default/Files/Media_2023/04/Human%20rights%20crisis%20-%20abortion%20in%20the%20united%20states%20after%20dobbs.Pdf, Para. 25; Guttmacher Institute, *The High Toll Of Us Abortion Bans: Nearly One In Five Patients Now Travelling Out Of State For Abortion Care*, December 2023, Guttmacher.Org/2023/12/High-Toll-Us-Abortion-Bans-Nearly-One-Five-Patients-Now-Traveling-Out-State-Abortion-Care

doctors treating out-of-state patients may have to work without access to a full evidence base of medical records. Impacts of the ban and restrictions on emergency healthcare are explored in Chapter 5.

3. HOW EVER-CHANGING RULES UNDERMINE MEDICATION ABORTION OPTIONS

> **"Medical abortion has played a seminal role in expanding access to safe abortion globally, especially for women and girls in the most vulnerable situations who may lack access to health facilities or need to keep their abortion private by avoiding hospital stays, so it's important that healthcare practitioners can facilitate it as an option for abortion care."**
> *- Dr. Bela Ganatra,*
> *Head of the Comprehensive Abortion Care Unit at the World Health Organization.*[140]

The option of ending a pregnancy using drugs, as opposed to surgery, has been available in the United States since 2000, although access to abortion pills has varied greatly from state to state. The two-drug combination of mifepristone and misoprostol, known as a "medication abortion," is approved by the US Food and Drug Administration for ending pregnancies of up to 10 weeks.[141] Medication abortion pills[142] are on the World Health Organization's list of essential medicines for reproductive health, to which universal access should be ensured. The WHO affirms their use up to 12 weeks and

[140] World Health Organization, *New Clinical Handbook Launched To Support Quality Abortion Care*, 12 June 2023, Https://Www.Who.Int/News/Item/12-06-2023-New-Clinical-Handbook-Launched-To-Support-Quality-Abortion-Care.
[141] US FDA, "Information About Mifepristone For Medical Termination of Pregnancy Through Ten Weeks of Gestation," https://www.fda.gov/drugs/postmarket-drug-safety-information-patients-and-providers/information-about-mifepristone-medical-termination-pregnancy-through-ten-weeks-gestation.
[142] World Health Organization, *The WHO Lists Both Mifepristone And Misoprostol Taken Together And Misoprostol Alone When The Duo Is Not Available,* 21 September 2022, Https://Www.Who.Int/Publications/I/Item/Who-Srh-22.1.

has affirmed that—with proper information, guidance, and support—medication abortions can be safely self-managed without clinician involvement.[143]

Before Dobbs, many states already limited access to medication abortions by creating medically unnecessary barriers restricting the dispensing of these medications; for example, by requiring in-person clinical visits before the medicine is prescribed. Some of these barriers were eased by federal-level intervention during the Covid pandemic: in December 2021, the FDA removed the in-person dispensing requirement for mifepristone and expanded the distribution of the medication beyond certified clinicians to include certified pharmacies.[144] As of January 2023, the FDA approved a protocol for certified pharmacies to dispense mifepristone directly to individuals with a prescription from a certified healthcare provider.

In the post-Dobbs environment, however, access to this safe and highly effective[145] method of ending pregnancy, which accounted for almost two thirds of all US abortions in 2023,[146] is under severe threat in many parts of the US.

> **"To try to restrict mifepristone, it's a direct attack on the scientific process. Mife[pristone] is used outside of abortion care. Folks undergoing miscarriage won't receive medical management in the way that's indicated. All of medicine should be paying attention to this, AMA, Pharma. How the anti-movement is so vast and has reached so many aspects of abortion care. For medication abortion, we want to optimize it."**
> *- Dr. Colleen McNicholas, St. Louis, MISSOURI*[147]

[143] World Health Organization, *Abortion Care Guidelines* (2022), P.98. See Also World Health Organization, *Abortion Care Guidelines* (2022), P. 70 (No Requirement For Location- On-Site Vs. Off-Site); Https://Iris.Who.Int/Handle/10665/349316.

[144] US FDA, *Questions and Answers on Mifepristone for Medical Termination of Pregnancy Through Ten Weeks Gestation*, 1 September 2023, https://www.fda.gov/drugs/postmarket-drug-safety-information-patients-and-providers/questions-and-answers-mifepristone-medical-termination-pregnancy-through-ten-weeks-gestation (It is important to note that pharmacies must opt-in and become certified in order to dispense medication abortion pills.)

[145] KFF, *The Availability And Use Of Medication Abortion*, 28 September 2023, Https://Www.Kff.Org/Womens-Health-Policy/Fact-Sheet/The-Availability-And-Use-Of-Medication-Abortion/.

[146] Rachel K. Jones Et Al, *Medication Abortions Accounted For 63% Of All Us Abortions In 2023, An Increase From 53% In 2020*, Guttmacher Institute, 19 March 2024, Https://Www.Guttmacher.Org/2024/03/Medication-Abortion-Accounted-63-All-Us-Abortions-2023-Increase-53-2020

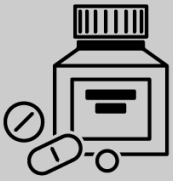
[147] Amnesty International Interview with Dr. Colleen McNicholas, St. Louis, Missouri, 8 December 2023.

Protestors rally outside the US Supreme Court to support access to medication abortion. (Probal Rashid/LightRocket via Getty Images)

3.1. NEW RULINGS AND POLICIES ON ABORTION PILLS

Following the Supreme Court's decision in Dobbs, states have control over whether pregnant persons have access to medication abortion. While the federal government and current administration have clarified that federal regulations currently permit the dispensing of mifepristone and misoprostol by telehealth or mail, without an in-person requirement, the Dobbs decision made clear that accessing medication abortion pills is not provided as a right and is subject to state laws. As such, while medication abortion pills can be accessed through telehealth appointments with providers in non-restrictive states and mailed to individuals, concerns remain around the targeting and criminalization of providers, individuals wishing to terminate a pregnancy, and those who may assist impacted individuals in accessing care.

YOUR RIGHT TO ACCESS ABORTION SERVICES



Following the Supreme Court's decision to overturn *Roe v. Wade*, access to abortion will depend on the state you live in even more than before.

Medication abortion has been approved by the FDA since 2000 as a safe and effective option. Federal regulation permits medication abortion to be dispensed by telehealth and sent by mail via certified prescribers and pharmacies, in addition to in-person dispensing in clinics, medical offices, and hospitals.[148]

[148] *Know Your Rights: Reproductive Health Care,* US Departments Of Health And Human Services (June 2022), Https://Www.Hhs.Gov/About/News/2022/06/25/Know-Your-Rights-Reproductive-Health-Care.Html

Following the *Dobbs* decision, those who oppose abortion rights have been keen to prevent the new state abortion bans and restrictions from being weakened by the availability of medication abortions, including via mail order.[149] Companies supplying abortion pills in the US, which generally prescribe and dispatch pills following a clinician review of patient history and a telehealth visit, could become constrained by changing regulations in the states in which they are based.[150] AidAccess, a global supplier based outside the US, and therefore not subject to US or US state laws, does not require an in-person or telehealth visit and dispenses medication through the mail following an online consultation.[151] Not surprisingly, demand for mail order abortion pills has greatly increased[152] since the *Dobbs* decision. In non-restrictive states, some state governments have enacted "shield laws" to protect physicians in their state who prescribe medication abortion pills into restricted states via telehealth appointments from prosecution.[153]

Among a host of new restrictive developments in multiple states, a lawsuit was brought in 2022 by doctors who oppose abortion access to challenge the original FDA approval of mifepristone, as well as its easing of access barriers. This was unanimously rejected by Supreme Court in June 2024, when justices ruled that the plaintiffs had no legal right to sue. However, the decision left the door open to further lawsuits.[154]

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[149] KFF, *The Availability Of Medication Abortion*, 20 March 2024, Https://www.Kff.Org/Womens-Health-Policy/Fact-Sheet/The-Availability-And-Use-Of-Medication-Abortion/; Rachel Cohen, "The New Front On The Right's War On Abortion," Vox News, 9 January 2023, Https://Www.Vox.Com/Policy-And-Politics/2023/1/9/23540562/Abortion-Pills-Medication-Dobbs-Roe-Mifepristone; Center For American Progress, "A Year After The Supreme Court Overturned Roe V. Wade, Trends In Abortion Laws Have Emerged," 15 June 2023, Https://Www.Americanprogress.Org/Article/A-Year-After-The-Supreme-Court-Overturned-Roe-V-Wade-Trends-In-State-Abortion-Laws-Have-Emerged/

[150] Plan C, Https://Www.Plancpills.Org/, Based In The US, Offers Resources To Individuals Seeking Medication Abortions, Including A State-By-State List Of Online Retailers, A Breakdown Of Which States Require Clinician Involvement, Cost, Estimated Ship Time Per Medication, Quality, Drug Protocol Guidelines, And Resources For Financial Assistance. While Prices Vary, Obtaining Abortion Pills This Way Is Typically Less Expensive. Individuals Seeking Legal Support May Access It Through Various Reproductive Justice Advocacy Organizations Including Https://Ifwhenhow.Org/.

[151] Aid Access, Https://Aidaccess.Org/En/.

[152] KFF, *The Availability And Use Of Medication Abortion*, 20 March 2024, Https://Www.Kff.Org/Womens-Health-Policy/Fact-Sheet/The-Availability-And-Use-Of-Medication-Abortion/.

[153] Caroline Kitchener, "Blue-State Doctors Launch Abortion Pill Pipeline Into States With Bans," The Washington Post, 19 July 2023, Https://Www.Washingtonpost.Com/Politics/2023/07/19/Doctors-Northeast-Launch-Abortion-Pill-Pipeline-Into-States-With-Bans/

[154] Unted States Supreme Court, *FDA et al. v. Alliance for Hippocratic Medicine*, 13 June 2024, Https://Www.Supremecourt.Gov/Opinions/23pdf/23-235_N7ip.Pdf

RISK OF NATIONWIDE MEDICAL ABORTION BAN AVERTED … FOR NOW

The US Supreme Court heard the case of *Alliance for Hippocratic Medicine Et Al. v. US Food and Drug Administration* on March 26, 2024, in which the plaintiffs challenged the evidence-based actions by the FDA to expand access to mifepristone. The court dismissed the challenge, in a procedural ruling, thereby averting what could have been a devastating blow for many in banned states for whom mail-order medication abortion pills were their only avenue to access abortion care.

However, campaigners against abortion continue to search for ways to get around federal protections for those seeking to access abortion pills via mail order. one focus of their efforts is a not yet rescinded 19th century law, the Comstock Act, which bans the mailing of "obscene matter" including articles intended for "abortion-causing purpose." nevertheless, on December 23, 2022, the US Department of Justice issued a legal memorandum to clarify that the mailing of medication abortion pills through the us mail service did not violate the Comstock act.[155] the opinion stated:

"Section 1461 of title 18 of the US Code does not prohibit the mailing of certain drugs that can be used to perform abortions where the sender lacks the intent that the recipient of the drugs will use them unlawfully. because there are manifold ways in which recipients in every state may lawfully use such drugs, including to produce an abortion, the mere mailing of such drugs to a particular jurisdiction is an insufficient basis for concluding that the sender intends them to be used unlawful."[156]

However, those opposed to abortion continue searching for ways to ensure the act can be re-interpreted and invoked.

Meanwhile, the existing patchwork of federal and state laws severely impedes access to medication abortion outside of mail-order provision. Medication abortions are prohibited in all 14 of the states[157] now imposing total abortion bans, while 15 other states have introduced new barriers to accessing abortion medication. Such barriers include not permitting the pills to be obtained and prescriptions filled through a

[155] United States Postal Service, *Memorandum Opinion for The General Counsel*, 23 December 2022, Https://Www.Justice.Gov/Olc/Opinion/File/1560596/Dl?Inline

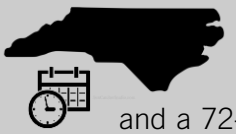
[156] United States Postal Service, *Memorandum Opinion for The General Counsel*, 23 December 2022, Https://Www.Justice.Gov/Olc/Opinion/File/1560596/Dl?Inline

[157] ID, ND, SD, TX, MO, AR, OK, LA, MS, AL, TN, KY, OH, And IN; KFF, *The Availability And Use Of Medication Abortions*, March 2024; Https://Www.Kff.Org/Womens-Health-Policy/Fact-Sheet/The-Availability-And-Use-Of-Medication-Abortion/

telehealth visit and requiring in-person clinician and physician visits, in contravention of guidance provided by the World Health Organization and FDA.[158]

As of July 25, 2024:

- 15 states require a physician to provide the medication abortion.[159]
- 5 of those states require the patient to visit a physician in person.[160]
- 2 states ban mailing pills for medication abortion to a patient.[161]



NORTH CAROLINA: *AMY H. STEIN ET AL.*[162]

North Carolina requires that mifepristone be dispensed only in person by a physician after a state-mandated counseling session and a 72-hour waiting period. An obstetrician-gynecologist (OBGYN) in the state is challenging the restrictions as they contradict and are more stringent than the regulations approved by the FDA.[163]

3.2 ECONOMIC AND CIRCUMSTANCIAL BARRIERS TO ACCESS

In the United States, affordability is a significant barrier to both medication and procedural abortions, even in states where these are available. Abortion coverage, and therefore access, is highly dependent on a person's insurance coverage, employment, and geographic location, among other factors. A person seeking abortion care who resides in a state where abortion is restricted or banned may be able to access abortion funds and other resources to manage care, but the fear of being targeted and or criminalized persists.[164]

In states where medication abortion is available, restrictions to provision through requirements to see physicians or counselors can delay a patient's access to abortion pills. In states with total bans, individuals seeking access out-of-state will still need to navigate the restrictions imposed by neighboring states. Many individuals find that the option of self-managing a medication abortion is the only feasible approach. However,

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[158] Jasmine Cui and Danica Jefferies, "Where Medication Abortion is and isn't Legal" NBC News, 21 February 2023, https://www.nbcnews.com/health/womens-health/map-pills-medication-abortions-are-legal-rcna70490

[159] These States Are AK, AZ, FL, GA, LA, KS, MI, NE, NV, NC, OH, PA, SC, UT, WI, See Guttmacher Institute, *State Laws and Policies: Medication Abortion,* 21 October 2023, Https://Www.Guttmacher.Org/State-Policy/Explore/Medication-Abortion

[160] These states are AZ, NE, NC, SC and WI, See Guttmacher Institute, *State Laws and Policies: Medication Abortion,* 21 October 2023, Https://Www.Guttmacher.Org/State-Policy/Explore/Medication-Abortion

[161] These States Are NC And AZ, but there are legal challenges being considered, See Guttmacher Institute, *State Laws and Policies: Medication Abortion,* 21 October 2023, Https://Www.Guttmacher.Org/State-Policy/Explore/Medication-Abortion

[162] *Bryant v. Stein et al.*, U.S. District Court for the Middle District of NC, Bryant V. Stein Et Al 1:2023cv00077 | Us District Court For The Middle District Of North Carolina | Justia ; Abortion-Drug-Nc.Pdf (Courthousenews.Com)

[163] Lynn Bonner, "NC Doctor Challenges State Restrictions on Abortion Pill," NC Newsline, 25 January 2023, https://ncnewsline.com/briefs/nc-doctor-challenges-state-restrictions-on-abortion-pill/

[164] Abortion Funds Can Be Identified And Access Through Various Resources Including: Https://Abortionfunds.Org/; Https://Abortionfunds.Org/Find-A-Fund/; Https://Prochoice.Org/Patients/Naf-Hotline/

they will often still need to get an out-of-state doctor to provide a prescription. They will need to understand their own state's response to out-of-state medication abortions, navigate telehealth or online systems, and then cope with what might be a difficult abortion process in and of itself.

Barriers to accessing pills for a self-managed medication abortion disproportionately impact individuals for whom arranging a medication abortion within the formal medical system would be overwhelmingly difficult or impossible. As well as those living in states with total abortion bans, such individuals may include: people who live in rural or remote areas; those with child or elder care responsibilities or work responsibilities that limit ability to travel; people with disabilities; low-income individuals who may not be able to afford in-clinic and/or medication abortion pill costs; and people in oppressive, potentially even violent, domestic situations who cannot risk explaining the need to travel or see a physician or are afraid to seek out medication abortion pills in restrictive states.

As of 2021, almost 40 percent of US women lived in a county without an abortion provider.[165] And that scarcity of access to abortion care is growing according to researchers.[166] Post *Dobbs*, the need for access to medication abortion is even more acute: in just the first 100 days after the *Dobbs* decision, 66 clinics across 15 US states ceased providing abortion care.[167] And according to a 2022 March of Dimes report, an estimated 2.2 million US women live in "OB-GYN deserts," and 4.7 million more live in areas with limited access to care.[168]

The cost of abortion pills can vary depending on the state or health center concerned and whether the patient can use private or government health insurance. Today, a medication abortion in the US can cost up to around $800.[169] The average cost of the medication protocol provided through the charity Planned Parenthood is around

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[165] Jennifer Welsh, *A Verywell Report: Abortion Access Ranked By State* (27 Sept. 2021), Https://Www.Verywellhealth.Com/Abortion-Access-Ranking-States-5202659

[166] Selena Simmons-Duffin And Shelly Cheng, "How Many Miles Do You Have To Travel To Get Abortion Care: One Professor Maps It," NPR, 21 June 2023, Https://Www.Npr.Org/Sections/Health-Shots/2023/06/21/1183248911/Abortion-Access-Distance-To-Care-Travel-Miles ("Just A Year Ago, 'Less Than 1% Of The U.S. Population Was More Than 200 Miles From A Provider And The Average Person Was 25 Miles From A Provider…As Of April 2023, 14% Of The Population Is More Than 200 Miles From The Nearest Abortion Facility, And The Average American Is 86 Miles From A Provider."); Center For American Progress, "Abortion Access Mapped By Congressional District," 21 April 2024, Https://Www.Americanprogress.Org/Article/Abortion-Access-Mapped-By-Congressional-District/; Selena Simmons-Duffin And Hilary Fung, "How Florida And Arizona Supreme Court Rulings Changed The Abortion Access Map," NPR, 11 April 2024, Https://Www.Npr.Org/Sections/Health-Shots/2024/04/11/1243991410/How-Florida-And-Arizona-Supreme-Court-Rulings-Change-The-Abortion-Access-Map; Guttmacher Institute, *Guttmacher Institute Releases 2020 Abortion Provider Census With Important Data On Us Abortion Landscape Before The Fall Of Roe*, 21 December 2022, Https://Www.Guttmacher.Org/News-Release/2022/Guttmacher-Institute-Releases-2020-Abortion-Provider-Census-Important-Data-Us#:~:Text=In%202020%2c%2089%25%20of%20us%20counties%20did%20not,Of%20women%20aged%2015%E2%80%9344%20lived%20in%20these%20counties

[167] Marielle Kirstein Et All, *100 Days Post-Roe: At Least 66 Clinics Across 15 Us States Have Stopped Offering Abortion Care*, Guttmacher Institute, October 2022, Https://Www.Guttmacher.Org/2022/10/100-Days-Post-Roe-Least-66-Clinics-Across-15-Us-States-Have-Stopped-Offering-Abortion-Care

[168] *Maternity Care Deserts Report, Nowhere To Go: Maternity Care Deserts Across The U.S.* (2022), Https://Www.Marchofdimes.Org/Maternity-Care-Deserts-Report.; Stacy Weiner, "The Fallout Of Dobbs On The Field Of Ob-Gyn," AAMC News, 23 August 2023; Https://Www.Aamc.Org/News/Fallout-Dobbs-Field-Ob-Gyn.

[169] *The Availability And Use Of Medication Abortions*, KFF, March 2024; Https://Www.Kff.Org/Womens-Health-Policy/Fact-Sheet/The-Availability-And-Use-Of-Medication-Abortion/

$580.[170] How far along a person is in their pregnancy could be determinative of cost and access to medication abortions. Abortions generally become more expensive and more difficult to access the further a pregnancy develops.

[170] Planned Parenthood, *How Much Does The Abortion Pill Cost?,* Https://Www.Plannedparenthood.Org/Learn/Abortion/The-Abortion-Pill/How-Much-Does-Abortion-Pill-Cost

CLARA, LOUISIANA **Name changed for privacy purposes*

Due to Louisiana's total abortion ban, 45-year-old Clara* was forced to spend over $1,000 and travel over 1,800 miles to Oregon to end her pregnancy with a medication abortion. "It was probably one of the hardest things I've had to go through, from the moment of discovering that I was pregnant at age 45 to having to take time off work, travel across the country, do a meeting with a doctor, take the pills and then skedaddle back home and then go to work like nothing had happened," Clara stated. Driving to a neighboring state was not an option due to equally restrictive laws in all states directly neighboring Louisiana. The only available appointments in other closer states would have meant waiting until further into the pregnancy. She could not simply fly home and take them in her own home since that could run afoul of Louisiana's law.[171]

KANIYA, WASHINGTON, DC

I'm from Kentucky, but I'm a student here in DC doing reproductive access activism on campus. In May 2023, during finals, I realized I was pregnant. I tracked my cycle, and I was confident that I was only maybe two weeks pregnant. I spoke with my partner, and we agreed that I should have an abortion. I felt like a self-managed [medication] abortion was the best option for me. …I could not get an in-clinic appointment in DC. Abortion bans in neighboring states are strapping resources in places [such as DC] where abortions are legal. I even called a Planned Parenthood that was 45 minutes away, and all they could offer me was a pregnancy test appointment, but nothing in the clinic where I could get an ultrasound or see a doctor. I knew there would be barriers if I went home to Kentucky.

Luckily, I had some contacts with reproductive justice organizations because of my activism. I was able to get Mife and Miso [mifepristone and misoprostol]. I'm fortunate that the contacts I had were able to give me the pills for free because they normally cost upwards of $500. I'm a student, working three jobs and paying rent, so I'm unsure how I would have made that work. I was nervous, but I'm one of the lucky ones.

My worst fear was that if it didn't work, I may have to go through the process of finding and taking the medication again. Afterwards, my first feeling was relief, but I also felt sad in part due to my religious upbringing. Post-abortion ended up being complicated for me because I bled for much longer than I was supposed to. I finally saw a doctor and found out that I had an ovarian cyst. I know now that if I had been able to get an in-clinic appointment before I took the medication, I would have been

[171] C. Zdanowicz, "A 45-Year-Old Got Pregnant In A State With A Ban On Abortions. She Flew Across The Country To Get One," CNN, 9 July 2023, Www.Cnn.Com/2023/07/09/Health/Abortion-Cross-State-Lines-Louisiana-Oregon/Index.Html

better prepared for the situation, especially because I was so anemic and I was still working three jobs and going to school, so I never took a break."[172]

3.3 CONFUSION AND FEAR OF LITIGATION

ANONYMOUS CLINIC STAFF, ILLINOIS

Post-Dobbs we have seen more patients come for medication abortions. In an average day we see 18 to 26 patients for medication abortions. Common questions people calling ask are: Will I need follow up appointments? What if it doesn't work? Patients are nervous about taking a pill back to a banned state. They want to know if their medical records are confidential. Patients also inquire about cut off dates for medication abortions and surgical procedures, whether treatments are covered by insurance, if it's necessary for them to stay overnight, if they need to have a consultation before getting the procedure, and whether they can they bring someone with them [for support].[173]

Well before the *Dobbs* decision, there have been cases of individuals facing criminal charges for self-managing a medication abortion, and some states impose criminal charges on clinicians or others who help such individuals. [174] However, new restrictive laws and policies have heightened a climate of fear for both pregnant individuals accessing medication abortion pills and anyone who may seek to assist them. The vast, complex and ever-changing landscape of laws is intimidating, even to lawyers tasked with navigating their meaning.

Doctors, healthcare professionals, and hospital systems have struggled to develop guidelines and policies for their practice. Patients may be unsure if and where they can receive abortion pills and may fear speaking to doctors during a medication abortion if there are complications, or even after, in case providers could report them.

ANONYMOUS, MISSOURI

A mother of five realized she was approximately eight weeks pregnant when she began pursuing options to terminate her pregnancy. As a resident of a state with one of the

[172] Amnesty International Interview with Anonymous, Washington, DC, 19 March 2024.
[173] Amnesty International Interview with Anonymous Clinic Staff, II, 2 December 2023.
[174] Laura Huss, Farah Diaz-Tello, Goleen Samari, "Self-Care Criminalized: The Criminalization Of Self-Managed Abortion From 2000 To 2020" If/When/How 30 October 2023, Https://Ifwhenhow.Org/Resources/Selfcare-Criminalized/. (The Report Explores Cases Between 2000 And 2020 That Occurred Across 26 States with The Greatest Concentration in Texas, Followed by Ohio, Arkansas, South Carolina, And Virginia).

strictest abortion bans in the country, she was forced to look out of state for options. The woman checked with the nearest clinic for an appointment for a medication abortion, but the wait time was four weeks, meaning that she would need a procedure rather than being able to terminate her pregnancy using medication abortion. She eventually was able to secure abortion pills through the mail.

Even though the woman was experiencing a complication, which is rare, she did not seek medical help for fear of alerting medical staff to her medication abortion. She had decided to sit in her car so that her children would not have to witness what she was experiencing. However, an hour later, when she didn't return to the house, her children called their grandmother, who then found her in the car, unresponsive. Missouri's abortion ban does not criminalize people for having abortions, per se; however, law enforcement has the discretion to arrest and prosecute people for pregnancy-related criminal charges, and rogue prosecutors have been known to arrest and prosecute people for their pregnancy outcomes.[175]

The woman was rushed to a Catholic-run hospital nearby, where she received a dilatation-and-curettage surgical procedure. "I nodded in and out of consciousness in the [hospital] lobby for several minutes ... I sat in that wheelchair, and instead of thinking about survival, I thought about not going to jail. .... I told myself to make sure you tell the staff that you're having a miscarriage.

The hospital staff then hosted a "funeral service" for the tissue she passed — and even offered her a "death certificate." "I was forced to participate in having my tissues in a mass grave with a headstone."[176] The woman nearly died due to her delay in seeking medical care because she had real fears of criminal charges should it be discovered she took the pills rather than it being the result of a normal miscarriage.[177]

ANONYMOUS, TEXAS

I grew up in a conservative Christian household and always believed abortion was wrong. I was going through a divorce and had just started seeing someone new. We hadn't been together very long when I found out I was pregnant. I knew I wanted to terminate the pregnancy. I did not know much about the law in Texas. I called my doctor to ask for her advice, but as soon as I said I was pregnant and wanted to terminate the pregnancy, the office immediately shut me down. It caught me off guard and was incredibly upsetting. When I called to confirm my appointment, the receptionist answered, "I can't even talk to you over the phone." I said, "Can you at

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[175] K. Cheung, ""Woman Tells Congress She Nearly Died From Abortion Complications Because She Feared Jail Time," Jezebel, 19 July 2023, Https://Www.Jezebel.Com/Woman-Tells-Congress-She-Nearly-Died-From-Abortion-Comp-1850651054

[176] T.S. Mitchell, "Missouri Woman Tells Congress How She Self-Managed Her Abortion," Huffington Post, 18 July 2023, Https://Www.Huffpost.Com/Entry/Missouri-Woman-Abortion-House-Committee_N_64b70d95e4b093f07cb1a47f

[177] K. Cheung, Woman Tells Congress She Nearly Died From Abortion Complications Because She Feared Jail Time," Jezebel, 19 July 2023, Https://Www.Jezebel.Com/Woman-Tells-Congress-She-Nearly-Died-From-Abortion-Comp-1850651054; "House Democratic Discussion On Abortion Rights", CSPAN, 17 July 2023, Https://Www.C-Span.Org/Video/?529368-1/House-Democratic-Discussion-Abortion-Rights

least tell me whether the doctor can talk to me?" She said, "No, I cannot." So, I cancelled my appointment.

I felt isolated, scared, and angry. I was fortunate to have access to a retired medical professional who could provide me with pills to facilitate a medical [medication] abortion. Two weeks after I took the pills, I got a blood test, and the HCG [pregnancy hormone] levels were going down. But when I took the pills, I did not know if the medicine would work. I had no plan of what I would do from there. Would I have had to come up with money to travel out of state? Out of the country? I did not feel I could navigate all the laws across the country while going through this. Six weeks later, I needed to go in for my yearly physical. I lied and told [that] doctor that I had miscarried because I was so freaked out by my [other, OBGYN] doctor's response. I was scared to tell the truth.[178]

Physicians and healthcare professionals may need to be involved in a medication abortion beforehand to assess how far along an individual is in their pregnancy, during the abortion if a complication arises, or after the abortion to ensure that the method was successful in terminating the pregnancy.[179] However, physicians and healthcare providers called upon to treat unsuccessful medication abortions are being forced to navigate state restrictions on care rather than focus on the duty of care to their patients. This is true even in the case of medical emergencies, as explored in more detail in Chapter 5.

[178] Amnesty International interview with Anonymous, Texas, 4 March 2024.
[179] World Health Organization, *Abortion Care Guideline*, 8 March 2022, Https://Www.Who.Int/Publications/I/Item/9789240039483.

4. IMPACT OF ABORTION CRIMINALIZATION

> **"It is so scary to me to know that I'm not only worrying about my patients' medical safety, which I always worry about, but now I am worrying about their legal safety, my own legal safety. The criminalization of both patients and providers is incredibly disruptive to just normal patient care."[180]**
> *- Dr. Katie McHugh, in an interview with National Public Radio (NPR)*

Following the *Dobbs* decision, many US states have enacted civil and criminal penalties for individuals seeking abortions and those who assist them, including physicians and healthcare providers. At the time of publication of this report, at least 33 states have laws that include some form of criminal penalty for individuals providing abortions.[181] Of these, 16 impose felony charges for performing an abortion at any time during the pregnancy, including by administering abortion pills in the first trimester.[182] Several states impose criminal penalties for providing an abortion after six weeks gestation,

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[180] S. Simmons-Duffin, "Doctors Weren't Considered in Dobbs, But Now They're on Abortion's Legal Front Lines," NPR, 3 July 2022, https://www.npr.org/sections/health-shots/2022/07/03/1109483662/doctors-werent-considered-in-Dobbs-but-now-theyre-on-abortions-legal-front-lines

[181] Ala. Code § 26-23H-4; Ariz. Rev. Stat. Ann. § 36-2322; Ark. Code Ann. §§ 5-61-301–304; Del. Code. Ann. Tit. 24, § 1790 (b); Fla. Stat. Ann. §§ 390.01112, 390.0111; Ga. Code Ann. §§ 16-12-140, 16-12-141; Idaho Code § 18-622; Ind. Code Ann. § 16-34-2-1; Iowa Code Ann. §§ 146B.2, 707.7; Kan. Stat. Ann. § 65-6724(j); Ky. Rev. Stat. § 311.772; La. Stat. Ann. § 14:87.7; Miss. Code Ann. § 41-41-45; Mo. Rev. Stat. § 188.017(2); Mont. Code Ann. §§ 50-20-109, 50-20-112; Neb. Rev. State. §28-3,106; Nev. Rev. Stat. Ann. § 200.220; N.H. Rev. Stat. § 329.46; N.M. Stat. Ann. §§ 30-5A-3, 30-5A-5; N.C. Gen. Stat. § 90-21.81B(2); S.B. 2150, 68th Leg. Sess., Reg. Sess. (N.D. 2023); Ohio Rev. Code Ann. § 2919.195(A); Okla. Stat. Tit. 21, § 861; 18 Pa. Stat. and Cons. Stat. Ann. § 3211(a); S.C. Code Ann. § 44-41- 630(B); S.D. Codified Laws § 22-17-5.1; Tenn. Code Ann. § 39-15-213; Tex. Health & Safety Code Ann. § 170A.004; Utah Code Ann. § 76-7a-201; Va. Code. Ann. §18.2-71.1; W. Va. Code §16-2R-3; Wis. Stat. Ann. § 253.107; Wyo. Stat. Ann. § 35-6-123. As of 5 September 2023, courts have enjoined or partially enjoined these laws in Utah and Wyoming.

[182] Ala. Code § 26-23H-4; Ark. Code Ann. §§ 5-61-301-304; Idaho Code § 18-622; Ind. Code § 16-34-2-1; Ky. Rev. Stat. § 311.772; La. Stat. Ann. 14 §87.7; Miss. Code Ann. § 41-41-45; Mo. Rev. Stat. § 188.017(2); S.B. 2150, 68th Leg. Sess., Reg. Sess.1 § 1 (N.D. 2023); Okla. Stat. Tit. 21, § 861; S.D. Codified Laws § 22-17-5.1; Tenn. Code Ann. § 39- 15-213; Tex. Health & Safety Code Ann. § 170A.004; Utah Code Ann. § 76-7a-201; W. Va. Code §16-2R-3; Wyo. Stat. Ann. § 35-6-123.

with another six criminalizing abortion later in pregnancy.[183] Criminal penalties across these states range from jail time to life imprisonment and involve fines upwards of $100,000.[184]

Laws like these impede the vital work of physicians and healthcare providers and endanger patients' lives. When states create an environment where physicians and other health workers face civil and criminal penalties for running afoul of abortion bans and restrictions, are encouraged or required to report individuals seeking care to law enforcement or withhold or alter care and treatment at the cost of patient wellbeing, they risk dire consequences not only for those seeking abortions but on all individuals who may become or are pregnant.

According to Human Rights Watch, "[e]ven where physicians determine that an abortion is necessary and are willing to stipulate that the patient's condition falls under a medical exception to a state's ban, those physicians often still face difficulty assembling the necessary medical team to carry out the procedure due to reluctance from other staff or suppliers of medication, as well as state regulations requiring multiple physicians to attest to the legal compliance of any abortions performed."[185] The chilling effect of anti-abortion legislation may also cause doctors to withhold information from patients for fear that their medical advice could violate their state's anti-abortion legislation.[186]

Criminalization also stigmatizes abortion, impacts access to sexual and reproductive care, impacts the quality of care, and has a discriminatory impact on Black, Indigenous, and other people of color (BIPOC), multiple marginalized individuals, and individuals with low incomes. State laws that criminalize abortion expand policing and prosecution of individuals, disproportionately impacting BIPOC, immigrant, low-income, transgender, and other peoples who are already systemically marginalized.[187] In building criminal cases, government and law enforcement agents may utilize surveillance tactics and access private medical records and information. The criminalization of abortion post-*Dobbs* is an extension of the criminalization that has

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[183] Ga Code Ann. §§ 16-12-140, 16-12-141; Ohio Rev. Code Ann. § 2919.195(A); S.C. Code Ann. § 44-41-630(B); Fl. Stat. Ann. § 390.0111. As of 5 September 2023, the Ohio 6-week ban has been enjoined, and Florida's 6-week ban has not gone into effect pending a judicial ruling.

[184] Ala. Code §§ 26-23H-6(a),13A-5-6 (imposing class A felony subject to life imprisonment or a sentence up to 99 years); Tex. Health & Safety Code Ann. § 170A.004 ; Tex. Penal Code Ann. § 12.32 (imposing first degree felony subject to 5 to 99 years or life and a fine up to $10,000); La. Stat. Ann. § 14:87.7(C) (imposing a sentence of 1 to 10 years and fines from $10,000-$100,000); Ark. Code Ann. § 5-61-404(b) (imposing up to a 10 year prison sentence and $100,000 penalty).

[185] Human Rights Watch, *Human Rights Crisis: Abortion Rights in the United States After Dobbs*, hrw.org/sites/default/files/media_2023/04/Human%20Rights%20Crisis%20-%20Abortion%20in%20the%20United%20States%20After%20Dobbs.pdf, para. 12.

[186] Human Rights Watch, *Human Rights Crisis: Abortion Rights in the United States After Dobbs*, hrw.org/sites/default/files/media_2023/04/Human%20Rights%20Crisis%20-%20Abortion%20in%20the%20United%20States%20After%20Dobbs.pdf, para. 14; Jessica Glenza, "A Severe Chilling Effect': Abortion Bans will Inhibit Doctors' Advice to Patients, Experts Fear," The Guardian, 6 May 2022, theguardian.com/world/2022/may/06/abortion-bans-patient-doctor-medical-advice.

[187] Improper criminalization of pregnant people based on their lack of access to healthcare and socio-economic status in violation of ICCPR Articles 2, 3, 9, 14, and 26.

been impacting pregnant people since the rise of "fetal personhood" laws.[188] It continues an alarming trend of criminalizing healthcare, more generally, and creates a culture of fear and mistrust, which can force people to seek care outside of safe healthcare systems.

For example, a 26-year-old Latinx woman, was arrested in Texas and charged with murder in April 2022 after authorities claimed she caused the death of an individual by self-induced medication abortion. She spent two nights in jail before the Texas Attorney General later dropped her case.[189] The case sent shockwaves through the state, adding to an environment of fear in a state with one of the most restrictive abortion bans nationwide.

TAYLOR, TEXAS

I was essentially navigating my healthcare through random internet searches. Even doing the searches made me nervous. I was scared that the state might be tracking our internet searches somehow. The fearmongering in Texas after Dobbs had a real impact on me. The case of a Latinx woman being arrested for taking abortion pills was fresh in my mind.[190] … I was scared to call my doctor in case there was mandatory reporting. I was not sure what the law meant. A few weeks after my pregnancy was terminated, I went to get my annual checkup. I had been bleeding for weeks, and I could not even ask anyone about it. There was some abnormality in my pancreas in the blood tests. My doctor couldn't figure it out. I couldn't tell her I had had an abortion. I lied and said I had a miscarriage. I couldn't even be honest with my physician, so she couldn't treat me effectively. Moving one sector [abortion access/pregnancy] out of the umbrella of healthcare is just wrong. Having bodily autonomy is a human right." [191]

4.1 HUMAN RIGHTS CONTEXT OF CRIMINALIZATION

Human rights bodies and global health organizations insist on the need to decriminalize abortion in all circumstances and ensure universal access to all who need it. They have repeatedly expressed concern over the criminalization of healthcare providers in the context of sexual and reproductive healthcare and the need to protect patient privacy.[192]

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[188] Pregnancy Justice, *The Rise of Pregnancy Criminalization: A Pregnancy Justice Report* (Sept. 2023), https://www.pregnancyjusticeus.org/wp-content/uploads/2023/09/9-2023-Criminalization-report.pdf

[189] Julianne McShane, *Texas District Attorney drops case against woman charged with murder for self-induced abortion,* NBC News, 10 April 2022; https://www.nbcnews.com/news/texas-district-attorney-says-indictment-woman-charged-murder-self-indu-rcna23782

[190] Mary Ziegler, *Lizelle Herrera's Texas arrest is a warning*, NBC News,16 April 2022, https://www.nbcnews.com/think/opinion/lizelle-herreras-texas-abortion-arrest-warning-rcna24639

[191] Amnesty International interview with Taylor, San Antonio, Texas, 20 January 2024.

[192] Human Rights Committee, General Comment No. 36 on Article 6 of the International Covenant on Civil and Political Rights on the right to life, CCPR/C/GC/36, ¶ 8 (2019) (stating that states should not apply "criminal sanctions to [people who have abortions] or to medical service providers who assist them in doing so, since taking such measures compels [people] to resort to unsafe abortion"),

Criminalization of abortion threatens multiple human rights, including the rights to life, privacy, freedom from torture and other ill-treatment, information, education, non-discrimination, bodily autonomy and determination of the number and spacing of children. (See International Human Rights Framework and Appendix for detail of international human rights law).

Criminalizing and/or otherwise denying access to safe abortion services has a cascading effect on the course of people's lives, as well as on their quality of life. The UN Working Group on the issue of discrimination against women in law and in practice observed: "Ultimately, criminalization does grave harm to women's health and human rights by stigmatizing a safe and needed medical procedure."[193] Laws that do not place pregnant people at the center and do not respect their autonomous decision-making and human rights, cause harm to all women, girls and others who can become pregnant, in particular people who are systemically marginalized and/or otherwise face intersecting forms of discrimination.

4.2 FEDERAL LAW ON CRIMINALIZATION

Federal laws[194] that criminalize specific abortion procedures in the second trimester of pregnancy have been in place since well before the *Dobbs* decision and continue to be applied. A physician who performs a "dilation and extraction" procedure can be tried for a federal crime. A physician convicted of performing this procedure for any reason other than to save the life of the pregnant person could face up to two years in federal prison.[195] The so-called "Partial-Birth Abortion Act" was passed by US Congress in 2003 and upheld by the US Supreme Court in 2007, despite numerous medical professionals attesting to the "dilation and extraction" procedure being one of the safest ways to end a second trimester pregnancy while maintaining a person's ability to become pregnant in the future.

At the time of the ruling, the president of the American College of Obstetricians and Gynecologists (ACOG) said that the decision "leaves no doubt that women's health in America is perceived as being of little consequence."[196]

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https://www.ohchr.org/sites/default/files/INFO_Abortion_WEB.pdf; *see also* World Health Organization, *WHO issues new guidelines on abortion to help countries deliver lifesaving care: Access to safe abortion critical for health of women and girls* (9 March 2022), https://www.who.int/news/item/09-03-2022-access-to-safe-abortion-critical-for-health-of-women-and-girls

[193] UN Working Group on the issue of discrimination against women in law and in practice, *Women's autonomy, equality and reproductive health in international human rights: Between recognition, backlash and regressive trends, Working Group on the issue of discrimination against women in law and in practice (October 2017), www.ohchr.org/Documents/Issues/Women/WG/WomensAutonomyEqualityReproductiveHealth,pdf*

[194] 18 U.S. Code Chapter 74; Title 18 U.S. Code 1531, https://www.law.cornell.edu/uscode/text/18/1531

[195] Title 18 U.S. Code 1531, https://www.law.cornell.edu/uscode/text/18/1531

[196] Janice Hopkins Tan, *US Supreme Court Approves Ban on "Partial Birth Abortion*, BMJ, 28 April 2007; 334 (7599): 866-867; doi: 10.1136/bmj.39192.397338.DB.

4.2.2 FEDERAL PRIVACY & THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)

The Health Insurance Portability and Accountability Act (HIPAA) of 1996 created federal standards to protect the privacy of a patient's health information. Subsequently, the Department of Health and Human Services (HHS) issued a privacy rule, which went further in setting standards for the protection of individual privacy rights and clarifying who was subject to the rule.[197] The privacy rule prohibits healthcare organizations and providers from sharing an individual's protected health information unless in circumstances permitted or required under the rule, or unless the individual concerned has authorized this in writing.[198]

In April 2024, post-*Dobbs*, the HHS strengthened protections in the rule by limiting the circumstances in which the use or disclosure of this information could be permitted.[199] The move was intended to address the potential post-*Dobbs* that a person's personal health information could be used to conduct state or interstate investigations or impose liability, and that this could lead individuals to seek care beyond lawful services or fail to disclose critical information to their healthcare provider or could prevent physicians and other healthcare workers from providing care. However, these new protections are facing legal challenges as this report was published.

4.3 STATE LAWS CRIMINALIZING ABORTION

Since the Supreme Court ruling in *Dobbs* that there is no federal right to abortion, various laws have been actioned at the state level to ban, restrict or criminalize abortion, those assisting abortion seekers, or physicians and healthcare workers treating the abortion seeker. These laws include centuries-old statutes, which had been rendered largely irrelevant by *Roe v. Wade*,[200] but were never repealed and can now be accessed

[197] "Individually identifiable health information" is information, including demographic data, that relates to: (1) the individual's past, present or future physical or mental health or condition; (2) the provision of health care to the individual; or (3) the past, present, or future payment for the provision of health care to the individual; and that identifies the individual or for which there is a reasonable basis to believe it can be used to identify the individual. Individually identifiable health information includes many common identifiers (e.g., name, address, birth date, Social Security Number). *See* Health and Human Services Department, *Standards for Privacy of Individually Identifiable Health Information* (15 Oct. 2002), https://www.federalregister.gov/documents/2002/08/14/02-20554/standards-for-privacy-of-individually-identifiable-health-information

[198] US Department of Health and Human Services Department, *Standards for Privacy of Individually Identifiable Health Information* (15 Oct. 2002), https://www.federalregister.gov/documents/2002/08/14/02-20554/standards-for-privacy-of-individually-identifiable-health-information

[199] US Department of Health and Human Services Department, *HIPAA Privacy Rule to Support Reproductive Health Care Privacy* (26 Apr. 2024), https://www.federalregister.gov/documents/2024/04/26/2024-08503/hipaa-privacy-rule-to-support-reproductive-health-care-privacy

[200] In some states, these older laws are being challenged on the theory that they have been impliedly repealed by subsequent laws. While laws remain on the books, however, they also remain part of the equation people must consider in evaluating risk and exposure to criminal liability. *See, e.g.*, Sarah Lehr, "The Legal Challenge of Wisconsin's 1849 Abortion Ban is Awaiting its Day in Court. Where Does the Case Stand?," Wisconsin Public Radio, 30 Sept. 2022, https://www.wpr.org/legal-challenge-wisconsins-1849-abortion-ban-awaiting-its-day-court-where-does-case-stand (quoting Wisconsin Attorney General Josh Kaul as explaining that "[t]he possibility of enforcement is out there now[] . . . What that has meant is that Planned Parenthood is no longer providing services in those three counties. If we get an order blocking enforcement of that law, that would allow them to resume services."); *see also*

again, as well as so-called "trigger laws" anticipating the overturn of *Roe*,[201] and laws enacted after the *Dobbs* decision.

Some states have attempted to ban providing abortion support to minors who need to travel out of state. Municipalities have made it an offense to help someone travel on their roads to seek an abortion. States have tried to pass provisions to allow them to enforce their abortion bans extraterritorially on abortion providers in other states introducing further concerns regarding surveillance of pregnant women and those who assist them in accessing care and infringing on women's freedom of movement.[202] "Abortion trafficking laws" have been introduced in various restrictive states, modeled after Idaho the first of state to pass such legislation. While Idaho's trafficking law has been enjoined while legal challenges are being appealed,[203] other states like Tennessee have enacted legislation criminalizing assisting a minor from seeking abortion care outside of the state.[204]

Erica N. White, et al., *Abortion Access Post Dobbs: Litigation Themes*, Network for Pub. Health Law (Nov. 4, 2022), https://www.networkforphl.org/wp-content/uploads/2022/11/Western-Region-Memo-Abortion-Access-Litigation-Themes.pdf (describing other implied repeal challenges in West Virginia and Arizona)

[201] Arkansas, Idaho, Kentucky, Louisiana, Mississippi, Missouri, North Dakota, Oklahoma, South Dakota, Tennessee, Texas, Utah, and Wyoming had trigger laws in place prior to the Dobbs decision. Elizabeth Nash & Isabel Guarnieri, *13 States Have Abortion Trigger Bans—Here's What Happens When Roe Is Overturned,* Guttmacher Institute, 6 June 2022, https://www.guttmacher.org/article/2022/06/13-states-have-abortion-trigger-bans-heres-what-happens-when-roe-overturned

[202] Rachel M. Cohen, "The Coming Legal Battles of Post-Roe America," Vox, 27 June 2022, https://www.vox.com/2022/6/27/23183835/roe-wade-abortion-pregnant-criminalize; Terry Gross, "The U.S. Faces 'Unprecedented Uncertainty' Regarding Abortion Law, Legal Scholar Says," National Public Radio, 18 January 2023, https://www.npr.org/sections/health-shots/2023/01/17/1149509246/the-u-s-faces-unprecedented-uncertainty-regarding-abortion-law-legal-scholar-sa; Thor Benson, "Interstate Travel Post-Roe Isn't as Secure as You May Think," Wired, 25 July 2022, https://www.wired.com/story/insterstate-travel-abortion-post-roe/

[203] Mary Anne Pazanowski, "Idaho Abortion 'Trafficking' Law Remains Halted During Appeal," Bloomberg Law, 2 February 2024, https://news.bloomberglaw.com/health-law-and-business/idaho-abortion-trafficking-law-remains-halted-during-appeal

[204] HB 1895, Tennessee General Assembly, https://wapp.capitol.tn.gov/apps/billinfo/default.aspx?BillNumber=HB1895

Activists protest during a rally in front of the US Supreme Court in response to the leaked draft decision to overturn Roe v. Wade. (Alex Wong/Getty Images)

4.4 CRIMINAL PROSECUTION OF THOSE SEEKING ABORTION CARE

Some state laws involve assigning "prenatal personhood" to a fetus, embryo or fertilized egg. As a result, it is possible for a pregnant person to be charged with child endangerment, assault or even homicide when a pregnancy ends due to complications or miscarriage as well as through planned abortion.[205]

These laws create an ominous and complicated legal landscape for individuals who may become pregnant and their care providers. Those living in states impacted by

[205] *See Abortion in America: How Legislative Overreach Is Turning Reproductive Rights Into Criminal Wrongs*, National Association of Criminal Defense Lawyers (Aug. 2021), https://www.nacdl.org/getattachment/ce0899a0-3588-42d0-b351-23b9790f3bb8/abortion-in-america-how-legislative-overreach-is-turning-reproductive-rights-into-criminal-wrongs.pdf (observing that "39 states have criminal laws giving fertilized eggs, embryos, and fetuses the status of separate crime victim."); Pregnancy Justice, *The Rise of Pregnancy Criminalization: A Pregnancy Justice Report* (Sept. 2023), https://www.pregnancyjusticeus.org/wp-content/uploads/2023/09/9-2023-Criminalization-report.pdf; Amnesty International, *Criminalizing Pregnancy: Policing pregnant women who use drugs in the USA* (23 May 2017), https://www.amnesty.org/en/documents/amr51/6203/2017/en/#:~:text=Collectively%20called%20pregnancy%20criminalization%20laws%2C%20this%20report%20provides,is%20asking%20the%20authorities%20to%20repeal%20these%20laws

criminalized care may find themselves subject to liability that could expose them to prosecution, incarceration, loss of professional licenses, or even the death penalty.[206]

In Alabama, for example, the "Human Life Protection Act" is a trigger law passed in 2019[207] and came into effect post Dobbs. It imposes a near-total abortion ban across the state and criminalizes any doctor who performs a banned abortion in the state as a Class A felony. It also defines an "unborn child" as a "human being, specifically including an unborn child in utero at any stage of development, regardless of viability."[208] Compounding this law, Alabama's recent Supreme Court ruling that frozen embryos are human beings under Alabama's Wrongful Death of a Minor Act[209] has created more fear and confusion over how the state may decide to enforce criminal liability on individuals who may become pregnant and/or healthcare providers and impacted access to in vitro fertilization services.

GEORGIA

Under Georgia's LIFE ACT, a law originally passed in 2019 that came into effect post *Dobbs*, abortion is banned at approximately six weeks of pregnancy – before many people even know they are pregnant.[210] One District Attorney in Douglas County warned that women "should prepare for the possibility that they could be criminally prosecuted for having an abortion..." claiming that the law authorized arresting abortion seekers.[211]

Alabama leads the nation in criminalizing pregnancy-related issues with an estimated 600 women arrested since 2006.[212] But it is not alone in taking drastic action in this area, as the following case studies illustrate.

Restrictive states can weaponize laws and law enforcement to harass and prosecute pregnant individuals experiencing the trauma of miscarriage and pregnancy-related

[206] In a bill proposed by South Carolina lawmakers, for example, abortion can be charged as murder, for which the death penalty would be an available sentence. *See* Rebecca Shabad, "S.C. Republicans Propose Bill that Could Subject Women Who Have Abortions to the Death Penalty," NBC News, 15 March 2023, https://www.nbcnews.com/politics/politics-news/sc-republicans-propose-bill-subject-women- abortions-death penalty-rcna75060 ("The South Carolina Prenatal Equal Protection Act would 'ensure that an unborn child who is a victim of homicide is afforded equal protection under the homicide laws of the state.' . . . Under South Carolina law, people convicted of murder can face the death penalty or a minimum of 30 years in prison.").

[207] Alabama House Bill 314, https://legiscan.com/AL/text/HB314/id/1980843; Xavier Wherry, "Human Life Protection Act Now in Full Effect in Alabama," WAAY-TV, 24 June 2022, https://www.waaytv.com/news/human-life-protection-act-now-in-full-effect-in-alabama/article_11e814b2-f40c-11ec-b49d-0f3fa6009935.html

[208] AL Code Section 26-23H-3 (2023), https://law.justia.com/codes/alabama/title-26/chapter-23h/section-26-23h-3/

[209] *LePage v. The Ctr. for Reprod. Med,* No. SC-2022-0515 Ala. (3 May 2024), https://law.justia.com/cases/alabama/supreme-court/2024/sc-2022-0579.html

[210] House Bill 481, Geneal Assembly of Georgia, https://www.legis.ga.gov/api/legislation/document/20192020/187013

[211] Tessa Stuart, "Georgia D.A. Says He Would Prosecute Women Who Get Abortions," Rolling Stone, 12 May 2019, https://www.rollingstone.com/politics/politics-news/george-d-a-says-he-will-prosecute-women-who-get-abortions-836145/

[212] Anita Wadhwani, "Alabama Leads Nation for Arresting, Punishing Pregnant Women, According to Report," Alabama Reflector, 22 September 2023; https://alabamareflector.com/2023/09/22/alabama-leads-nation-for-arresting-punishing-pregnant-women-according-to-report/

health issues, even when abortion care has not been sought, particularly where the laws are unclear.

ANONYMOUS, OHIO

A 34-year-old Black woman from Ohio was 22 weeks pregnant when she had a miscarriage and was subsequently criminally charged with felony abuse of a corpse. Her pregnancy had been deemed nonviable just days earlier, and she miscarried in the bathroom of her home in September of 2023. Two weeks later, she was arrested on charges of felony abuse of a corpse for how she handled the miscarriage remains. If she had been tried and found guilty, she faced up to a year in prison. An Ohio grand jury decided not to indict her on January 11, 2024.[213] Notably, in Ohio, there are no specific actions people are required to take in the event of a miscarriage. The woman told media outlets that she feels her race played a role in why she was charged. A hospital nurse had contacted police to report her and she was arrested at her home two days later. [214]

ANONYMOUS, NEVADA

In 2018, a 26-year-old single mother of two children found out she was pregnant through a home pregnancy test.[215] She did not feel she could cope with another child, but the nearest abortion clinic was two hours away, and she had no way of getting there. She had irregular periods but estimated she could not be more than 22 weeks pregnant. [216] The woman ingested cinnamon pills she thought would end her pregnancy. She delivered a stillborn fetus in April. In May, local police retrieved fetal remains buried on her property.[217] A coroner determined that the pregnancy had ended at between 28 and 32 weeks gestation. In 2019, the woman was charged with manslaughter. Under a state law passed in 1911, it is a felony for a woman to terminate her pregnancy with "any drug, medicine or substance, or any instrument

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[213] Jericka Duncan, "Brittany Watts, Ohio woman charged with felony after miscarriage at home, describes shock of her arrest," CBS News, 26 January 2024, https://www.cbsnews.com/news/brittany-watts-the-ohio-woman-charged-with-a-felony-after-a-miscarriage-talks-shock-of-her-arrest/; Maria Sole Campinati, "A Woman Who Had a Miscarriage is Now Charged with Abusing a Corpse as Stricter Abortion Laws Play Out Nationwide, CNN, 19 December 2023, https://www.cnn.com/2023/12/19/us/brittany-watts-miscarriage-criminal-charge/index.html

[214] Jericka Duncan," Brittany Watts, Ohio woman charged with felony after miscarriage at home, describes shock of her arrest," CBS News, 26 January 2024, https://www.cbsnews.com/news/brittany-watts-the-ohio-woman-charged-with-a-felony-after-a-miscarriage-talks-shock-of-her-arrest/; Maria Sole Campinati, "A Woman Who Had a Miscarriage is Now Charged with Abusing a Corpse as Stricter Abortion Laws Play out Nationwide," CNN, 19 December 2023, https://www.cnn.com/2023/12/19/us/brittan"y-watts-miscarriage-criminal-charge/index.html

[215] Savanna Strott, "In Pro-Choice Nevada, Obscure Law Sends Woman to Prison for Late-Term Pregnancy Loss," The Nevada Independent, 29 May 2022, https://thenevadaindependent.com/article/in-pro-choice-nevada-obscure-law-sends-women-to-prison-for-late-term-pregnancy-loss.

[216] *Id.*

[217] Jordan Hicks, "Humboldt County Woman Pleads Guilty to Manslaughter of Baby that Took Place Last May," News4, 24 April 2019, https://mynews4.com/news/local/humboldt-county-woman-pleads-guilty-to-manslaughter-of-baby-that-took-place-last-may

or other means" after the 24th week of pregnancy.[218] She was the first person to ever be charged under the statute.[219] The woman pled guilty to the charges and was sentenced to 30 to 96 months in jail. Although she was released on appeal after two years, the state reserved the right to re-charge her.[220]

4.5 IMPACT OF CRIMINALIZATION ON ABORTION AND RELATED HEALTHCARE PROVISION

The criminalization of physicians has been widely documented in the United States. Following *Dobbs*, numerous state statutes now criminalize healthcare providers who perform abortions.[221] Penalties include up to life in prison (Texas)[222] and fines as much as $100,000 (Oklahoma).[223] Healthcare providers who perform abortions past 20 to 22 weeks of gestation may face jail time in at least 14 US states.[224] Those who perform abortions past 24 weeks may face jail time in at least four states.[225] Several states impose civil penalties and liability for healthcare providers who perform abortions as early as six weeks.[226] In the most restrictive US states, terminating a pregnancy after a certain gestational age is a felony, which could result in jail time and/or loss of professional license. In states with unclear laws, healthcare providers could be subject to aiding and abetting provisions of abortion bans that carry civil and/or criminal penalties.

Criminalization of physicians and healthcare providers has impacted their mental and physical well-being, their ability to practice, their patients' access to care, and the volume of skilled medical students entering the field of abortion care across the healthcare system. In a qualitative study of 54 OBGYNs across 14 states where abortion has been banned, physicians described increased documentation burdens, ethical

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[218] NRS 200.220, Taking drugs to terminate pregnancy; penalty, https://www.leg.state.nv.us/nrs/nrs-200.html#NRS200Sec220 ("A woman who takes or uses, or submits to the use of, any drug, medicine or substance, or any instrument or other means, with the intent to terminate her pregnancy after the 24th week of pregnancy, unless the same is performed upon herself upon the advice of a physician acting pursuant to the provisions of NRS 442.250, and thereby causes the death of the child of the pregnancy, commits manslaughter and shall be punished for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $10,000.").

[219] Savanna Strott, "In Pro-Choice Nevada, Obscure Law Sends Wonan to Prison for Late-Term Pregnancy Loss," The Nevada Independent, 29 May 2022, https://thenevadaindependent.com/article/in-pro-choice-nevada-obscure-law-sends-women-to-prison-for-late-term-pregnancy-loss

[220] Supreme Court of Nevada, *Howell v. Frazier* (10 Aug. 2023), https://casetext.com/case/howell-v-frazier

[221] *See* Tex. Health & Safety Code § 170A.004; La. Stat. Ann. §14:87.7 (2022); Idaho Code § 18-622 (2022) Ala. Code § 26-23H Ark. Code Ann. § 5-61-304; Ky. Rev. Stat. § 311.772, § 188.017 R.S.Mo.; Okla. Stat. tit. 63, § 1-731.4; Miss. Code Ann. § 41-41-45; S.D. Codified Laws § 22-17-5.1; Tenn. Code Ann. § 39-15-201; Wis. Stat. Ann. § 940.04; and W. Va. Code § 61-2-8 (currently under an injunction).

[222] The Texas abortion ban classifies any attempt to induce an abortion as a second-degree felony if unsuccessful (punishable by up to 20 years in prison) and as a first-degree felony (up to life in prison) "if an unborn child dies as a result of the offense." Tx. Code § 170A.004(b).

[223] Okla. Stat. tit. 63, § 1-731.4.

[224] KFF, *Many States Impose a Jail Sentence for Doctors Who Perform Abortions Past Gestational Limits*, https://www.kff.org/wp-content/uploads/2022/05/Many-States-Impose-a-Jail-Sentence-for-Doctors-Who-Perform-Abortions-Past-Gestational-Limits.jpg , (last accessed 30 July 2024).

[225] *Id.*

[226] *Id.*

challenges, heightened stress when treating emergency cases, and retention and recruitment difficulties. [227]

Obstetrics and gynecology training in medical schools in restrictive states is also being impacted by the criminalization of abortion. The state of the law in these states limits what can be taught about abortion and results in some doctors choosing to train and practice in unrestricted states instead.[228] Just under half of all US OBGYN residency programs are located in restrictive states. [229] These programs are faced with the dilemma of whether to train students in abortion care and risk prosecution, or not train them and risk losing their accreditation as teaching the procedures used for abortion is a required element of the OBGYN residency curriculum by the Accreditation Council for Graduate Medical Education.[230]

Some programs are pairing up with medical schools in other, non-restrictive states,[231] but there are not enough spots to accommodate the need. An increasing number of medical residents are simply avoiding states with abortion bans, choosing instead to practice their skills in states where they can treat patients without fear of prosecution.

Restrictive states are not just seeing fewer new doctors come in, they are also losing doctors.[232] The state of Idaho, for example, has lost 22% of its practicing obstetricians since implementing its abortion ban, threatening to widen maternity care deserts across the state.[233]

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[227] Erika L. Sabbath, ScD, et al., *US Obstetrician-Gynecologists' Perceived Impacts of Post–Dobbs v Jackson State Abortion Bans*, Journal of American Medicine (JAMA) (17 Jan. 2024), https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2814017 (qualitative study of 54 OB-GYNs in the 14 states in which abortion became and remained illegal with limited exceptions from June 2022 to March 2023: Alabama, Arkansas, Georgia, Idaho, Kentucky, Louisiana, Mississippi, Missouri, Oklahoma, South Dakota, Tennessee, Texas, West Virginia, and Wisconsin; study included general OB-GYNs and subspecialists in maternal-fetal medicine and complex family planning; OB-GYNs described a range of perceived impacts, including distress at having to delay essential patient care, fears of legal ramifications, mental health effects, and planned or actual attrition.).

[228] Olivia Goldhill, "After Dobbs, U.S. Medical Students Head Abroad for Abortion Training No Longer Provided by Their Schools," STAT, 22 October 2022, https://www.statnews.com/2022/10/18/medical-students-heading-abroad-for-abortion-training/ (detailing how medical schools in states with abortion bans are pairing up with programs in other states that allow abortions in an attempt to ensure that future doctors are adequately prepared; many students interested in reproductive healthcare are considering moving to states where abortions are legal.).

[229]` Kavita Vinekar et al., *Projected Implications of Overturning Roe v Wade on Abortion Training in U.S. Obstetrics and Gynecology Residency Programs*, Obstet Gynecol. (1 Aug. 2022), https://pubmed.ncbi.nlm.nih.gov/35852261/, p. 147.

[230] Jan Hoffman, OB-GYN Residency Programs Face Tough Choice on Abortion Training," New York Times, 27 October 2022, https://www.nytimes.com/2022/10/27/health/abortion-training-residency-programs.html

[231] Jan Hoffman, OB-GYN Residency Programs Face Tough Choice on Abortion Training," New York Times, 27 October 2022, https://www.nytimes.com/2022/10/27/health/abortion-training-residency-programs.html

[232] Sheryl Gay Stolberg, "As Abortion Laws Drive Obstetricians From Red States, Maternity Care Suffers," New York Times, 6 September 2023, https://www.nytimes.com/2023/09/06/us/politics/abortion-obstetricians-maternity-care.html

[233] Kyle Pfannenstiel, "Idaho is Losing OB-GYNs After Strict Abortion Ban. But Health Exceptions Unlikely this Year," Idaho Capital Sun, 5 April 2024 ,https://idahocapitalsun.com/2024/04/05/idaho-is-losing-ob-gyns-after-strict-abortion-ban-but-health-exceptions-unlikely-this-year/

4.5.1 FIRST-HAND: PHYSICIAN ANXIETY IN THE CRIMINALIZED HEALTHCARE ENVIRONMENT

A doctor joins a protest in front of the US Supreme Court in response to the leaked draft decision to overturn Roe v. Wade. (Amanda Andrade-Rhoades/For The Washington Post via Getty Images)

Dr. DeShawn Taylor speaking to the Guardian just after the *Dobbs* ruling reported that she suspended abortion services because as a Black provider she felt particularly vulnerable to criminalization. At the time, abortion was still legal in Arizona, but as she noted, "that would not stop someone from causing a legal disaster that I would not be able to recover from." [234]

In a report detailing the impact of criminalization on physicians, Dr. Cindy Davis told the Center for American Progress how she practiced for more than two decades in South Dakota before the *Dobbs* decision, serving a critical role at a rural hospital between two Indigenous reservations. Most of Dr. Davis's patients are uninsured Indigenous persons, farmers, ranchers, and people living in religious (Hutterite Anabaptist) communities. Dr. Davis has expressed concerns that she may not be able to perform emergency medical procedures under the Emergency Medical Treatment and Labor Act in a state with an almost complete abortion ban.[235]

An April 2023 report published by Physicians for Human Rights, Center for Reproductive Rights and the Oklahoma Call for Reproductive Justice detailed how abortion bans and unclear guidance mean that not a single hospital in the entire state of Oklahoma is now able to provide clear, consistent policies supporting healthcare

[234] Nina Lakhani, "Abortion is Still Legal in Arizona. But Confusion and Fear Abound," The Guardian, 15 August 2022, https://www.theguardian.com/us-news/2022/aug/15/arizona-abortion-laws-ban-access

[235] Sabrina Talukder, *Idaho v. United States: The Dangers of Criminalizing Abortion Care*, Center for American Progress (4 Apr. 2024); https://www.americanprogress.org/article/idaho-v-united-states-the-dangers-of-criminalizing-abortion-care/.

providers to use their own medical judgment in providing care or supporting patient needs. The state's almost complete abortion ban has resulted in confusion, fear and uncertainty for physicians and the patients seeking treatment statewide.[236]

Amnesty International interviewed numerous doctors and healthcare workers who described first-hand their experiences treating individuals who sought abortion care post-*Dobbs*. Jennifer Pepper, executive director of Choices Memphis, Tennessee, described her worries about the sharing of healthcare records and potential prosecution, saying that she is in constant conversations with Choices' lawyers.[237]

One doctor from Dallas, Texas, now travels to other states to provide abortion care as Texas bans abortions and criminalizes physicians providing care. She told Amnesty, "[t]here is a huge moral injury among us as physicians." She went on to say that "[h]aving to deny people care over and over again – care you know you can offer, treatment you morally feel obligated to give and you can't – it weighs heavily on you."[238]

Another doctor from Baton Rouge, Louisiana, described the climate of fear amongst healthcare providers in her area: "It is a gray area for physicians. A lot of people don't know where to refer people to get the care they need, and people are worried. Doctors are scared to help people navigate and facilitate an abortion because they worry about criminalization."[239]

A doctor from Indianapolis, Indiana, commented: "Any limitations on a physician's ability to provide medical care will negatively impact the patient. It's just like any other area of medical care. The decision should be left to the patient and the doctor and medical guidelines, not legal ones, should dictate the treatment."[240]

Dr. Chris Creatura, an OBGYN from New York City shared her perspective with Amnesty International: "Doctors who are concerned about their employment, their license, their livelihood or even the safety of their family, may find ways to avoid providing care. Post Dobbs some facilities won't see pregnant people in their first trimester because they don't want to assume the risk that their care might be criminalized if something goes wrong. This withholding of care normalizes substandard treatment of pregnant people, which is how we got to this place. Doctors in states with abortion bans have all the tools that are an essential part of their job (to care for pregnant people) but now they are legally banned from providing evidence-based state of the art care. We need to liberate abortion care from the tyranny of legislation and politics and allow physicians to practice medicine."[241]

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[236] Christian De Vos, J.D., PhD, et al., *No One Could Say: Accessing Emergency Obstetrics Information as a Prospective Prenatal Patient i Post-Roe Oklahoma,* Physicians for Human Rights (PHR), Oklahoma Call for Reproductive Justice (OCRJ), and the Center for Reproductive Rights (CRR) (April 25, 2023), https://phr.org/our-work/resources/oklahoma-abortion-rights/

[237] Amnesty International interview with Jennifer Pepper – Executive Director, Choices Memphis, Memphis, TN, 1 December 2023.

[238] Amnesty International interview with Anonymous Doctor, Dallas TX conducted via Zoom, 26 October 2023.

[239]Amnesty International interview with Anonymous Doctor, Baton Rouge, LA, conducted via Zoom, 19 March 2024.

[240] Amnesty International interview with Anonymous Doctor, Indianapolis, IN, conducted via Zoom, 21 March 2024.

[241]Amnesty International interview with Dr. Chris Creatura, New York, NY, conducted via Zoom, 28 March 2024.

INDIANA

An anonymous doctor from Indiana described a case she had seen of a Haitian refugee girl who was seeking an abortion. The patient had taken varying doses of medication abortion pills, not as directed, and they had been ineffective.

The patient needed to leave Indiana and get to Illinois, a neighboring state where she could get an abortion. She had no phone, didn't speak English, and had no money for transport. She was a minor, so it was particularly complicated. "There are laws around the trafficking of minors that could be used against us if we were to transport her across state lines. Now, she is probably 11 weeks along, and we don't do anatomy ultrasounds [until] around 18 weeks, so there is no way to know what is going on with the fetus. You know, the *Dobbs* ruling came out, and these state laws were triggered banning abortion, and people say, "It's no big deal. Just go to Illinois or a nearby state." But traveling isn't an option for everyone. Some people don't have options.[242]

DR. AMNA DERMISH, PLANNED PARENTHOOD

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Amnesty International Interviewed Dr. Dermish, Chief Operating and Medical Services Officer for Planned Parenthood of Greater Texas, about the impact of abortion bans and criminalization in Texas post-*Dobbs*.

"I'm an OBGYN by training with a specialty in complex family planning. I have been here in Texas for almost 11 years now. And it felt like for the longest time that, every day I could show up to this clinic and see patients[,] I was winning. And then *Dobbs* just felt like it took that away. I'm still not over it. It was horrible. I was having panic attacks every day. No healthcare provider should ever be in

[242] Amnesty International interview with Anonymous Doctor, Indianapolis, IN, 21 March 2024.

that situation. And more importantly, no patient should ever be in a situation where their healthcare provider is able to provide them care and is held back by the government. It just never goes away. There is so much stigma and one of the joys of this work is to be able to remove some of that stigma for someone just to create a safe space where while you're here in this clinic, while you're here in this room, you are safe. [To be able to say] We care for you, we trust you, and you deserve this care. And that is the great joy of this work and I miss it."[243]

4.5.2 HEALTHCARE STAFF ACCOUNTS OF PATIENT ANGUISH AS A RESULT OF CRIMINALIZATION

Amnesty International interviewed numerous healthcare providers, advocates and clinic staff, who spoke about the impact of abortion criminalization on individuals trying to access care. Marie, a manager at Choices in Carbondale, Illinois, described how many of their patients are worried about a paper trail when they seek abortion care at the clinic and noted that a frequent question from patients is, "can I get in trouble for this?" Marie described how patients who take medication abortion pills are worried that if something happens, they cannot go to their doctor because they will know the patient had an abortion.[244] An administrator from Alamo Women's Clinic of Carbondale, Illinois, spoke about an individual patient's fears citing a woman who had an ultrasound in Tennessee before she came to the clinic and was worried what would happen later if she returned to the same doctor and was no longer pregnant; a patient who was taking medication abortion pills but was worried about taking the second pill in a restrictive state; patients in fear of having a miscarriage and needing to go to the emergency room; patients concerned about whether a routine blood test at a doctor's office would indicate traces of medication abortion pills.[245]

One woman who runs a hotline for a Texas abortion fund told Amnesty International that she receives a lot of calls from people who are confused about criminalization—terrified about being put in jail for having a miscarriage or trying to access care—particularly because many have children and are worried what might happen to them if they become criminalized and are incarcerated.[246]

[243] Amnesty International interview with Dr. Amna Dermish, Planned Parenthood of Greater Texas, Austin, TX, 19 January 2024.
[244] Amnesty International interview with Marie – Manager, Choices Carbondale, IL, 2 December 2023.
[245] Amnesty International interview with Andrea Gallegos, Executive Administrator, Alamo Women's Clinic, Carbondale, IL, 6 December 2023.
[246] Amnesty International interview with Jessica Torres Macias, TEA Fund, Dallas, TX, conducted via Zoom, 24 October 2023.

4.6 LEGAL CONSEQUENCES FOR THOSE "AIDING AND ABETTING" ABORTION-SEEKERS

TEXAS

A man filed a wrongful death lawsuit under Texas law against three friends of his ex-wife, who assisted her in accessing medication abortion pills. The lawsuit seeks upwards of one million dollars against each of the three women named in the case. His wife discovered she was pregnant in July 2022 and took abortion pills shortly thereafter. The couple divorced in February 2023. The man used screenshots of his ex-wife's phone messages to bring the case against the three women.[247]

ILLINOIS

Amnesty International interviewed the parent of an 18 year-old girl who had flown with her daughter from Texas to an abortion clinic in Illinois. The parent described how her daughter has a heart condition, and she was worried that by the time a doctor cleared her for an emergency abortion (which should be allowed under Texas law in order to save the life of the pregnant girl) it might be too late. The daughter did not want anyone to know that she was pregnant because she was scared someone could get mad and "turn her in." She was very worried about being prosecuted.[248]

States across the US now criminalize individuals for "aiding and abetting" abortion. In these states, any individual who "assists" a pregnant person in getting an abortion may be held criminally liable.[249] Laws can be broadly applied to criminalize any person who

[247] Ryan Autullo, "Texas Man Accusing Ex of Illegal Abortion Won't Get Her Texts," Bloomberg Law, 9 April 2024, https://news.bloomberglaw.com/litigation/texas-man-accusing-ex-of-illegal-abortion-wont-get-her-texts

[248] Amnesty International interview with guardian of 18-year-old person seeking abortion due to heart condition, Alamo Women's Health Clinic, IL, 6 December 2023.

[249] For example, Texas's pre-*Roe* abortion ban explicitly included accomplice liability. *See* Tex. Pen. Code art. 1192 (1925), https://www.sll.texas.gov/assets/pdf/historical-statutes/1925/1925-3-penal-code-of-the-state-of-texas.pdf#page=279 ("Whoever furnishes the means for procuring an abortion knowing the purpose intended is guilty as an accomplice"). Other states, in defining abortion as a felony, have imported generally applicable aiding and abetting provisions. *See, e.g.*, Hicham Raache, et al., "Oklahoma Attorney General Gives Law Enforcement Guidance on Abortion Law," KFOR, 31 Aug. 2022, https://kfor.com/news/local/oklahoma-attorney-general-gives-law-enforcement-guidance-on-abortion-law/ (discussing memo issued by Oklahoma Attorney General entitled "Guidance for Oklahoma law enforcement following *Dobbs v. Jackson Women's Health Org*" and citing Oklahoma definitions of principal and accessory criminal liability, and opining, "Oklahoma law prohibits aiding and abetting the commission of an unlawful abortion, which may include advising a pregnant woman to obtain an unlawful abortion. *See* 21 O.S. §§ 171-172, 861…"). Meanwhile, Alabama, Arizona, Arkansas, Florida, and Ohio have considered such a provision. *See* H.B. 4327, 2022 Leg., Reg. Sess. (Okla. 2022); H.B. 23, 2022 Leg., Reg. Sess. (Ala. 2022); H.B. 2483, 55th Leg.,

has discussed options for abortion access or care; provided information about resources, medication, or out of state clinics; transported an individual to access abortion care – as is now termed "abortion trafficking" in states such as Idaho or Tennessee; or contributed funds to provide support to an individual seeking medical treatment or abortion access.[250]

In some states, such as Texas, individuals who "aid and abet" abortion may face privately enforced civil penalties as well as criminalization.[251] These laws create a climate of fear and mistrust within the healthcare system and society as people are vulnerable to criminal or civil liability.

2nd Reg. Sess. (Ariz. 2022); S.B. 13, 93rd Gen. Assemb., 2nd Extraordinary Sess. (Ark. 2021); H.B. 167, 124th Leg., Reg. Sess. (Fla. 2022); H.B. 480, 134th Gen. Assemb., Reg. Sess. (Ohio 2021). *See also* Jia Tolentino,*"* We're Not Going Back to the Time Before Roe. We're Going Somewhere Worse*,"* The New Yorker, 24 June 2022, https://www.newyorker.com/magazine/2022/07/04/we-are-not-going-back-to-the-time-before-roe-we-are-going-somewhere-worse/amp

[250] Robert Klitzman, "Opinion: Roe's Reversal Doesn't Just Hurt Women – It Harms us All," CNN, 25 June 2022, https://www.cnn.com/2022/06/25/opinions/medical-ethics-post-roe-world-klitzman/index.html. *See also* Jia Tolentino, "We're Not Going Back to the Time Before Roe. We're Going Somewhere Worse," The New Yorker, 24 June 2022, https://www.newyorker.com/magazine/2022/07/04/we-are-not-going-back-to-the-time-before-roe-we-are-going-somewhere-worse/amp. *See also* Amanda Zablocki, et al. & M. Sutrina, *The Impact of State Laws Criminalizing Abortion*, Lexis Nexis (27 Sept. 2022), https://www.lexisnexis.com/community/insights/legal/practical-guidance-journal/b/pa/posts/the-impact-of-state-laws-criminalizing-abortion (noting potential aiding and abetting liability for employers who provide support or time off for employees to obtain abortions; for medical personnel who advise or assist; for individuals who facilitate; or for health plans that cover the procedure); Kate Elizabeth Queram, "Lyft and Uber Establish Legal Funds to Protect Drivers from Texas Abortion Law," Route Fifty, 7 September 2021, https://www.route-fifty.com/management/2021/09/ride-share-abortion-legal-fund-texas/185154/; Tim O'Donnell, "Under Texas ban, private citizens could sue a cab driver who takes a woman to an abortion," This Week, 1 September 2021, https://theweek.com/science/health/1004413/under-texas-ban-private-citizens-could-sue-a-cab-driver-who-takes-a-woman-to; R. Alta Charo, JD, *Vigilante Injustice — Deputizing and Weaponizing the Public to Stop Abortions*, The New England Journal of Medicine (14 Oct. 2021), https://www.nejm.org/doi/full/10.1056/NEJMp2114886

[251] Texas Heartbeat Act, Senate Bill 8 (SB 8) (20 Mar. 2021) (An Act relating to abortion, including abortions after detection of an "unborn child's heartbeat"; authorizing a private civil right of action), https://capitol.texas.gov/tlodocs/87R/billtext/pdf/SB00008F.pdf. *See also* Okla. Stat. tit. 63, §1-745.33-.34, .38 (2022); Idaho Code §§ 18-8804, 18-8807.

5. DENIAL OF EMERGENCY HEALTHCARE DUE TO ABORTION RESTRICTIONS

LEYA, MISSOURI **Name changed for privacy purposes*

Leya's, water broke at 17 weeks of pregnancy, signaling that her fetus would not survive and that she was at risk of severe health complications. Despite her need for an emergency abortion, Missouri's unclear laws forced the hospital to deny her the procedure. Freeman Hospital in Missouri told her she needed to travel out of state to get the care she urgently needed. The Kansas University Medical Center, Kansas, also turned her away, citing legal restrictions. Leya eventually traveled 300 miles to Illinois for the abortion, enduring physical pain during the journey. "The pain was hitting her in waves." Federal investigators found both hospitals violated the Emergency Medical Treatment and Labor Act (EMTALA) by failing to stabilize Leya. US Department of Health and Human Services Secretary Xavier Becerra acknowledged the hospitals' wrongdoing, emphasizing that no patient should endure such trauma.[252]

Under federal law, all hospitals that receive Medicare funds (which includes most US hospitals) must ensure public access to emergency services, screening, stabilizing treatment or transfer to another hospital for such treatment.[253] By denying abortion care

[252] Danny Wicentowski, "Mylissa Farmer Says Missouri's Abortion Law Put Her Life At Risk", NPR, 8 May 2023, https://www.kcur.org/health/2023-05-08/missouri-abortion-ban-law-mylissa-farmer-emergency

[253] Centers for Medicaid and Medicare Services, United States Government, *Emergency Medical Treatment & Labor Act (EMTALA)*, https://www.cms.gov/medicare/regulations-guidance/legislation/emergency-medical-treatment-labor-act

in emergency situations state abortion bans have conflicted with this federal law, leading to the risk of death or serious injury.

Pregnant individuals in such states have experienced inability to access abortion in case of miscarriage, denial of care for ectopic pregnancies, coerced travel across state lines to obtain emergency care, and reduced access to essential non-reproductive healthcare while pregnant.

Physicians used to practicing evidence-based medicine now find themselves bound by vague statutory language related to medical exceptions, leaving them unsure of what treatment they can provide without facing civil and/or criminal sanctions. Further complicating matters, some states have multiple, conflicting abortion bans in place. In a survey conducted by KFF, about 40% of OBGYNs in states with abortion bans said they had felt constraints in providing necessary medical care since the *Dobbs* decision. More than 60% said they were concerned about legal risk when they made decisions about the necessity of abortions.[254]

This all adds up to compromises on patient safety through delay, denial or abstention from the provision of treatment.[255] In such circumstances, it is no surprise that doctors are leaving states where they feel they can no longer provide proper safe treatment for patients. And this, of course, only deepens the healthcare crisis in the states they leave behind.

ANONYMOUS, OBGYN, INDIANA

We've had a lot of older OBs retiring and the new ones aren't coming here because of the abortion restrictions. Also, OBGYN departments lose money and so hospitals are shutting them down, and it is creating maternity deserts. We had a situation where a hospital system had closed its maternity ward. A pregnant patient came in and they diagnosed her with an ectopic pregnancy. It took them more than eight hours to transfer the patient to another hospital that had a maternity ward because it's a very rural area. By the time they got the patient to another hospital, she died in the operating room on the table.

In another case, there was a patient with heart failure. She had a serious heart condition, but, due to the pregnancy, they had stopped all of her heart medications. She was transferred to us only when she was so sick she couldn't even speak. She was basically dying. The patient was 10 weeks along. We had to wait for 18 hours to perform the abortion because it wasn't considered a medical emergency.

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[254] Brittni Frederiksen, Usha Ranji, Ivette Gomez, and Alina Salganicoff*, A National Survey of OBGYN's Experiences After Dobbs,* KFF, 21 June 2023, https://www.kff.org/womens-health-policy/report/a-national-survey-of-obgyns-experiences-after-dobbs/.

[255] Mabel Felix, et al., *A Review of Exceptions in State Abortion Bans: Implications for the Provision of Abortion Services*, Women's Health Policy Issue Brief, KFF, 18 May 2023. https://www.kff.org/womens-health-policy/issue-brief/a-review-of-exceptions-in-state-abortions-bans-implications-for-the-provision-of-abortion-services/

> **The hardest things for us are the medical conditions that aren't clear or obvious. If I have a patient who had pre-eclampsia in a previous pregnancy, for example, we don't know if they will develop it again, it may be too late once it presents, and it might be life-threatening for the patient. I think about that all the time when I see a patient. Nothing is safe in pregnancy. Pregnancy itself means you are 14 times as likely to die than if you weren't pregnant. If you have chronic hypertension and you get pregnant, you're more likely to get a stroke. You can't predict these things. It's hard to justify under the law, to certify in my best medical judgment. The risk might not present until the third trimester, and then it will be too late.[256]**

While at least some emergency exceptions are in place in all banned states, these are generally narrow and unclear, leaving clinicians unsure of what treatment they can provide without facing civil and/or criminal sanctions as access to life-saving care hangs in the balance. Healthcare providers report that exceptions do not work because every patient/circumstance is unique and different, and it is impossible to capture the range of conditions that may qualify.[257] Health is a spectrum, and there is uncertainty about when someone is sick "enough" to qualify.

Exceptions to abortion bans generally fall into four categories:

- to prevent the death of the pregnant person;
- to preserve the health of the pregnant person;
- when the pregnancy is the result of rape or incest; and
- where the embryo or fetus has severe or fatal anomalies incompatible with life.

However, exceptions vary from state to state. In some states the exception is only for fatal anomalies while, in others, even these do not meet the exception threshold. The exceptions are also often hard to interpret, leaving decision-makers to determine, for example, which anomalies count as "fatal," and which are merely "severe."

In Texas, a growing number of plaintiffs have joined the case of *Zurawski v. Texas* to challenge conflicting rules and non-medical terminology used in the state's abortion bans to define "medical emergency" exceptions." On May 31, 2024, the Texas Supreme Court ruled in this case refusing to clarify exceptions to the state's abortion bans."[258] Exception criteria are further explored later in this chapter (see 5.3 to 5.6).

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[256] Amnesty International interview with Anonymous conducted via Zoom, Indianapolis, Indiana, 21 Mar. 2024.
[257] Amy Schoenfeld Walker, "Most Abortion Bans Include Exceptions. In Practice, Few Are Granted," The New York Times, 21 January 2023, https://www.nytimes.com/interactive/2023/01/21/us/abortion-ban-exceptions.html
[258] Center for Reproductive Rights, *Zurawski v. State of Texas*, https://reproductiverights.org/case/zurawski-v-texas-abortion-emergency-exceptions/zurawski-v-texas/

5.1 HUMAN RIGHTS OBLIGATIONS TO EMERGENCY CARE PROVISION

Failing to allow pregnant individuals access to emergency medical care in states with abortion bans directly violates global norms and runs afoul of US human rights obligations. All emergency care should be aligned with the right to access healthcare, and when a State bans abortion, and the abortion is the treatment needed, it violates the right to health. States must guarantee immediate and unconditional treatment of persons seeking emergency medical care, including if such care includes abortion or post-abortion care. [259] Further, human rights standards dictate that measures introduced to regulate abortion may not violate women's and girls' right to life, jeopardize their lives, subject them to physical or mental pain or suffering, discriminate against them, or arbitrarily interfere with their privacy.[260] States must provide safe, legal and effective access to abortion where the life and health of the pregnant woman is at risk, or where carrying a pregnancy to term would cause substantial pain or suffering – most notably where the pregnancy is the result of rape.[261] States must guarantee immediate and unconditional treatment of persons seeking emergency medical care, including if such care includes abortion or post-abortion care.[262] States must ensure women have access to such care without fear of criminal penalties or reprisals.[263] The International Human Rights section of this report explores in detail the impact of abortion bans and restrictions on internationally agreed human rights protections.

5.2 FEDERAL LAW ON EMERGENCY HEALTHCARE PROVISION

The Emergency Medical Treatment and Labor Act (EMTALA) [264] was enacted by Congress in 1986 to prevent Medicare-participating hospitals with emergency rooms from transferring uninsured or Medicaid patients[265] to other hospitals without providing medical screening examination. EMTALA obligates hospitals to treat such patients in a non-discriminatory manner, treating any emergency medical conditions and/or stabilizing patients before transfer. The law provides that the Department of Health and

[259] Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Report to the Human Rights Council (2016) (UN Doc. A/HRC/31/57).
[260] CCPR, General Comment No. 36: Article 6 of the International Covenant on Civil and Political Rights, on the right to life (2018) (UN Doc. CCPR/C/GC/36).
[261] CCPR, General 6 Comment No. 36: Article 6 of the International Covenant on Civil and Political Rights, on the right to life (2018) (UN Doc. CCPR/C/GC/36).
[262] Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Report to the Human Rights Council (2016) (UN Doc. A/HRC/31/57).
[263] Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Report to the Human Rights Council (2013) (UN Doc. A/HRC/22/53).
[264] Centers for Medicare and Medicaid Services, US Government, Know Your Rights: Emergency Medical Treatment and Labor Act (EMTALA), https://www.cms.gov/files/document/emtala-know-your-rights.pdf.
[265] "Medicare" is federal health insurance for anyone age 65 and older, and some people under 65 with certain disabilities or conditions. 'Medicaid" is a joint federal and state program that gives health coverage to some people with limited income and resources. See: US Dept of Health & Human Servs., *Medicare and Medicaid*, https://www.hhs.gov/answers/medicare-and-medicaid/index.html

Human Services (HHS) may impose "civil monetary penalties on a hospital or physician refusing to comply and civil suits can be filed by private individuals against the hospital under state personal injury laws."[266]

A group of doctors join at a rally outside the Supreme Court while the court hears arguments on EMTALA. (Amanda Andrade-Rhoades/For The Washington Post via Getty Images)

In July 2022, HHS and the Centers for Medicare & Medicaid Services (CMS) issued guidance entitled *Reinforcement of EMTALA Obligations Specific to Patients who are Pregnant or are Experiencing Pregnancy Loss*. The guidance went to state healthcare agency directors and hospitals reminding them of their existing and continuing obligations under EMTALA in light of new state laws banning or restricting abortion. It stated:

> **"If a physician believes that a pregnant patient presenting at an emergency department is experiencing an emergency medical condition as defined by EMTALA, and that abortion is the stabilizing treatment necessary to resolve that condition, the physician must provide that treatment. When a state law prohibits abortion and does not include an exception for the life of the pregnant person or draws the exception more narrowly than EMTALA's emergency medical condition definition, that state law is pre-empted."[267]**

In addition to repeated guidance to healthcare providers and hospitals, HHS launched two investigations of hospitals that did not offer necessary stabilizing treatment to

[266] 42 CFR §1003.500; 42 U.S.C. § 1395dd(d)(2)(A).

[267] Dept. of Health & Human Servs., The Secretary of Health & Human Servs., Letter on Enforcement of EMTALA (11 July 2022).

individuals experiencing an emergency medical condition. HHS Secretary Xavier Becerra said in a statement:

> **"As healthcare providers on the front lines, the care you provide is critical for patients experiencing emergency medical conditions. Recent news reports have highlighted the troubling experiences of many pregnant women presenting to hospital emergency departments with emergency medical conditions and not being offered necessary stabilizing treatment or being turned away, which may be due to uncertainty regarding whether facility administrators may allow providers to follow their reasonable medical judgment in caring for pregnancy-related emergencies as a result of the legal status of abortion care and related obstetric services in their states. As we have made explicitly clear: we will use the full extent of our legal authority, consistent with orders from the courts, to enforce protections for individuals who seek emergency care – including when that care is an abortion."[268]**

However, continued litigation threatens the specific application of EMTALA to abortion cases.

[268] HHS Secretary Xavier Becerra Statement on EMTALA Enforcement, U.S. Dept. of Health and Human Services, (1 May 2023), https://www.hhs.gov/about/news/2023/05/01/hhs-secretary-xavier-becerra-statement-on-emtala-enforcement.html.

5.2.1 LITIGATION IMPACTING APPLICATION OF EMTALA TO PATIENTS NATIONWIDE

IDAHO V. UNITED STATES

In April 2024, the US Supreme Court heard the case of *Idaho v. United States* to determine the legality under EMTALA of clinicians in Idaho providing abortions to pregnant women experiencing dire medical conditions. The case was brought against the state of Idaho by the US Department of Justice (DOJ) in July 2022. The state's near-total abortion ban conflicts with care required under the EMTALA, exposing medical providers to criminal and civil sanctions for providing abortion care as a stabilizing treatment under federal law. Under the Idaho law, such stabilizing treatment could be provided only if the patient was at risk of death.

Multiple submissions filed in the case, including testimonies from medical professionals, detailed the critical consequences of delayed care, such as: sepsis requiring limb amputation, uncontrollable uterine hemorrhage requiring hysterectomy, kidney failure requiring lifelong dialysis, hypoxic brain injury, and permanent fertility issues.[269] The lower courts sided with DOJ and the case was appealed to the US Court of Appeals for the Ninth Circuit, which requested the Supreme Court to review the legal issues in the case.

The US Supreme Court dismissed the case on procedural grounds in June 2024 but declined to rule on the merits of the case.[270] In doing so, the court temporarily reinstated a lower court decision allowing emergency medical abortions to be performed in Idaho, where state law had banned such medical treatment in conflict with the EMTLA. The case is certain to return to the Supreme Court once the lower court makes its ruling.

[269] The Idaho Capital Sun, "OBGYNs speak out: Doctors say Idaho's abortion laws will cause harm to patients", 19 August 2022, https://idahocapitalsun.com/2022/08/19/obgyns-speak-out-doctors-say-idahos-abortion-laws-will-cause-harm-to-patients/

[270] *Moyle, et al. v. United States*, 603 U.S. (2024), https://www.supremecourt.gov/opinions/23pdf/23-726_6jgm.pdf.

BECERRA V. TEXAS

In July 2022, the state of Texas sued HHS Secretary Xavier Becerra, arguing that federal guidance concerning the provision of abortion care under the EMTALA exceeded HHS agency authority, violated the Administrative Procedure Act, and conflicted with Texas state law.[271] The lower court found for Texas, and the case was appealed to the US Court of Appeals for the Fifth Circuit, which also ruled in favor of Texas. The Biden Administration requested that the US Supreme Court hear the case to determine whether Texas' abortion law is trumped by federal requirements under EMTALA for hospitals to treat patients when their lives are at risk. [272]

Currently, in accordance with the preliminary injunction granted in *Texas v. Becerra*, HHS may not enforce the interpretation of its guidance that Texas abortion laws are pre-empted by EMTALA. It also may not enforce this interpretation of EMTALA with respect to when an abortion is required or how EMTALA affects state laws governing abortion within the state of Texas.[273] The Supreme Court had not indicated whether it will hear the case by the time this report was finished.[274]

5.3 EXCEPTIONS TO PREVENT DEATH OR PRESERVE THE HEALTH OF A PREGNANT PERSON

> **"It's absolutely dangerous to be pregnant in a banned state right now. I wouldn't feel safe for myself, daughters, friends, to be pregnant in Texas right now. It's just not safe. Not having full healthcare for pregnant people is dangerous."**
> ***– Andrea Gallegos, Executive Administrator, Alamo Women's Clinic of Illinois[275] (6 December 2023)***

Sixteen states with some form of abortion ban or restriction allow exceptions for severe health risks,[276] while 21 allow exceptions to protect the life of the patient. Proponents of abortion bans often point to these exceptions as evidence that abortion can still be

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[271] O'Neill Institute, *Health care Litigation Tracker, State of Texas et al. v. Becerra et al.*, https://litigationtracker.law.georgetown.edu/litigation/state-of-texas-v-becerra-et-al/

[272] Ian Lopez, "Biden Asks for Supreme Court Review of Texas Abortion Ruling," Bloomberg Law, 4 April 2024; https://news.bloomberglaw.com/health-law-and-business/biden-asks-for-supreme-court-review-of-texas-abortion-ruling-1

[273] Emergency Medical Treatment & Labor Act (EMTALA): Guidance for the EMTALA (26 Mar. 2012), https://www.hhs.gov/guidance/document/emergency-medical-treatment-labor-act-emtala-0.

[274] Laurie Sobel, et al., *Emergency Abortion Care to Preserve the Health of Pregnant People: SCOTUS, EMTALA, and Beyond*, KFF (27 June 2024), https://www.kff.org/policy-watch/emergency-abortion-care-scotus-emtala/

[275] Amnesty International interview with Andrea Gallegos, Alamo Women's Clinic, Carbondale, IL, 6 December 2023.

[276] Amy Schoenfeld-Walker, "Most Abortion Bans Include Exceptions. In Practice, Few Are Granted," The New York Times, 21 Jan. 2023, https://www.nytimes.com/interactive/2023/01/21/us/abortion-ban-exceptions.html. (reporting that 16 states with some form of abortion ban or restriction have exceptions for severe health risks: AL, AZ, FL, GA, IA, IN, KY, LA, MO, MT, NC, OH, TX, UT, WV, WY).

accessible in certain circumstances, yet, as already described, these exceptions are largely unworkable in practice, creating severe risks of bodily injury or death due to lack of care.

Exceptions permitted to prevent the death of the pregnant person create incredibly challenging treatment scenarios for healthcare providers. It is unclear how much risk of death or how close to death a pregnant patient may need to be for the exception to apply, and the determination is not deferred to the physician treating the pregnant patient.

Exceptions to preserve the health of the pregnant person are similarly difficult to navigate. Legal language differs from state to state with unclear implications. In Wyoming,[277] Ohio[278] and Indiana,[279] for example, the law allows an exception to abortion bans "when there is a serious risk of substantial and irreversible impairment of a major bodily function." In Louisiana,[280] the law allows an exception "to prevent serious, permanent impairment of a life-sustaining organ." Exceptions are permitted in Georgia "to prevent substantial and irreversible physical impairment of a major bodily function,"[281] and in Utah, "when there is serious physical risk of substantial impairment of a major bodily function."[282] In Texas, an exception to the abortion ban is allowed only "when there is a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that poses a serious risk of substantial impairment of a major bodily function."[283]

Physicians are given vague and narrow exceptions as guidelines but not granted the deference to utilize their evidence-based clinical knowledge and judgment to evaluate and treat a patient in emergency conditions. They are forced to weigh not only whether an emergency treatment is right for their patient but whether the patient's condition is serious "enough" or there is substantial "enough" evidence of potential future harm to warrant that treatment. They can face prison time, monetary fines and the loss of their professional license if a jury or state disagrees with their medical judgment.

Healthcare providers in states that heavily restrict or ban abortion have had to bring litigation to get clarity on the meaning of certain laws, to be able to provide care without facing civil or criminal liability. In Ohio, medical providers[284] challenged the provisions of Ohio's abortion ban "health exception," arguing that its vagueness prevented physicians and healthcare providers from treating patients with emergency and serious medical conditions. In the lawsuit, providers detailed a case in which a pregnant woman with stage III melanoma (cancer) was not given treatment due to lack of clarity as to

[277] WY STAT § 35-6-102 (2022); https://law.justia.com/codes/wyoming/2022/title-35/chapter-6/section-35-6-102/
[278] OH Rev Code § 2919.195 (2023); https://law.justia.com/codes/ohio/title-29/chapter-2919/section-2919-195/
[279] IN Code § 16-34-2-1 (2023), https://law.justia.com/codes/indiana/title-16/article-34/chapter-2/section-16-34-2-1/.
[280] LA. STAT. ANN. § 14:87.1(v) (2022); https://legis.la.gov/Legis/Law.aspx?p=y&d=78689
[281] GA Code Section 16-12-141(a)(3)(2022), https://law.justia.com/codes/georgia/2022/title-16/chapter-12/article-5/section-16-12-141/
[282] UT Code § 76-7-302(2023); https://law.justia.com/codes/utah/title-76/chapter-7/part-3/section-302/
[283] TX Health & Safety Code § 170A.002 (2023); https://law.justia.com/codes/texas/health-and-safety-code/title-2/subtitle-h/chapter-170a/section-170a-002/
[284] *PreTerm Cleveland, et al. v. Yost*, Case No. A2203203 (2 Sept. 2022), https://www.aclu.org/cases/preterm-cleveland-v-david-yost?document=Preterm-Cleveland-v-David-Yost-Complaint

whether Ohio's health exception permitted doctors to terminate her pregnancy and provide cancer treatment.[285]

In Georgia, healthcare providers challenged a state abortion ban which does not allow for medical exceptions where there is "substantial but reversible" physical impairment of a major bodily function, "less than 'substantial' but irreversible physical impairment" of a major bodily function, or *"substantial and irreversible physical impairment of a bodily function that is not 'major.'"*[286]

The mental health of patients is generally not taken into consideration in the provision of exceptions to abortion bans. In most banned states, the laws concerned do not mention the mental health of the individual carrying the pregnancy. Some states explicitly exclude consideration of the mental and emotional health of the patient as part of the assessment for exceptions.[287]

[285] *Affidavit of Dr. Sharon Liner in Support of Plaintiffs Motion for Temporary Restraining Order Followed by Preliminary Injunction* at p. 4, *Preerm Cleveland v. Yost* (2 Sept. 2022), https://www.acluohio.org/sites/default/files/field_documents/2022.09.02_motion_fr_tro-pi.pdf

[286] *Sistersong Women of Color Reproductive Justice Collective, et al. v. State of Georgia*, (26 July 2022), https://www.aclu.org/sites/default/files/field_document/3335457914882030539 2022-07-26_ga_state_court_complaint_0.pdf (emphasis added).

[287] Georgia, Kentucky, Louisiana, Ohio, Tennessee, Idaho, Florida, Iowa, West Virginia, and Wyoming explicitly exclude healthcare providers from considering the mental/emotional health of a patient in assessing whether a medical exception to abortion bans is justified.

TEXAS

Sarah (name changed for privacy) was 18 weeks pregnant when her water broke. The doctor told her the fetus would not survive as Sarah's cervix was dilating fully 22 weeks before her due date. A miscarriage was inevitable. When amniotic fluid leaks and a pregnant person's water breaks, they are at high risk for infection. But in Sarah's case, because the fetus still had a heartbeat, doctors were unable to terminate the pregnancy. Texas law permits an exception to the state's abortion ban if the person carrying the pregnancy "has a life-threatening physical condition aggravated, caused by, or arising from a pregnancy that places the female at risk of death or poses a serious risk of impairment of a major bodily function," but there is no clear guidance as to what exactly this exception means in practice, and running afoul of the law can mean civil and criminal penalties for the physician, including a possible life sentence in prison.

Doctors instructed Sarah to go home and monitor for signs of infection. Three days later, after her fever spiked to 103 degrees, she was rushed to the emergency room. She received antibiotics for the bacterial infection and even a blood transfusion, but neither treatment was effective. Twelve hours after her pregnancy was finally terminated, doctors admitted her to the Intensive Care Unit (ICU) as she had developed sepsis, which is life threatening. After inserting an intravenous line near her heart, doctors were able to get her the medication needed to stabilize her blood pressure. Sarah may never be able to have children due to the scarring in her uterus caused by the infection.[288]

5.4 EXCEPTIONS IN THE EVENT OF ECTOPIC PREGNANCY OR MISCARRIAGE

Vague guidance and legislation complicate abortion restrictions or bans that allow for medical exceptions in the case of ectopic (implanted outside of the uterus and not viable) pregnancy or miscarriage. In some states, medical care may be delayed or restricted in such cases if fetal cardiac activity is detected– which can start as early as five to six weeks with the pulsing of cardiac tissue before the heart has developed.

[288] Elizabeth Cohen and John Bonifield, "Texas Woman Almost Dies Because She Couldn't Get an Abortion," CNN, 20 June 2023, https://www.cnn.com/2022/11/16/health/abortion-texas-sepsis/index.html

LOUISIANA

Gabrielle (name changed for privacy) and her husband were already parents to a four-year-old daughter when they found out she was pregnant again. At around eight weeks she started having some spotting and mild cramping – symptoms she had not experienced in her first pregnancy. As a pregnant woman in post-*Dobbs* Louisiana, however, Gabrielle experienced challenges getting an appointment to see an OBGYN before 12 weeks. She was told that due to the state's abortion ban and the fact that many women miscarry in the first trimester, that most physicians were only seeing patients after the 12-week mark.

Somewhere around 10 or 11 weeks, Gabrielle began experiencing severe pain and bleeding and drove herself to the nearest emergency room. She was informed that the fetus she was carrying measured only seven or eight weeks and had stopped growing. Her blood tests showed that the pregnancy hormone levels were low, and doctors told her the fetus had a very faint heartbeat, but no one would confirm with her that she was miscarrying or what her options were for treatment. They discharged her and told her to come back if the symptoms worsened. A few days later, she was again bleeding and in pain. She felt blood and tissue come out of her and went to a different emergency room in hopes of getting better treatment. At the second emergency room she was told she had lost a lot of blood, might have a ruptured cyst, and that she had not even been pregnant. When Gabrielle assured the doctor that she was pregnant and requested treatment options, the doctor refused, telling her to return home and come back in two to three days if she was having a miscarriage. Weeks later, she passed the pregnancy at home. Gabrielle described feeling dismissed, insulted and disrespected throughout the process and wondered how much of it had to do with her being a Black woman. Doctors failed to give her the treatment she needed, given the vagueness of Louisiana's law, resulting in Gabrielle receiving subpar care.[289]

[289] Rosemary Westwood, "Bleeding and in pain, she couldn't get 2 Louisiana ERs to answer: Is it a miscarriage?,"NPR, 29 December 2022, https://www.npr.org/sections/health-shots/2022/12/29/1143823727/bleeding-and-in-pain-she-couldnt-get-2-louisiana-ers-to-answer-is-it-a-miscarria

WISCONSIN

Hospital staff would not remove fetal tissue from a patient who had an incomplete miscarriage because they were afraid it would run afoul of Wisconsin's abortion ban.[290] As a result, the patient remained at home bleeding for more than 10 days without care. The patient ultimately survived, and the tissue was expelled safely. However, these types of complications are common and can lead to worsening complications such as hemorrhaging or sepsis, which can be fatal and/or impact the patient's future fertility.[291] Aside from the physical health impact, the mental toll of such delayed or subpar emergency care can lead to psychological distress, suffering and severe trauma.

5.5 EXCEPTIONS IN SEXUAL ASSAULT CASES

Only 11 out the 21 states with abortion bans or restrictions allow for exceptions in cases of rape or incest.[292] In these states, there are often limits as to how far into the pregnancy an exception is permitted and/or there is a general requirement that the rape be reported to law enforcement, although some allow for a Child Protective Services (CPS) report in lieu of a law enforcement report for minors who are survivors of sexual assault or incest.[293]

Like other such exceptions to abortion bans, those pertaining to cases of rape or incest are often unworkable in practice. Stringent gestational limits still apply, and reporting requirements act as a deterrence since the majority of survivors of rape do not report their assaults to police for a variety of reasons. Even when assaults are reported, the reporting process often further delays the timing of abortion care.[294] A January 2024 study found that thousands of girls and women in states that banned abortion post-*Dobbs* experienced rape-related pregnancy.[295] While the study could not confirm final figures, it concluded that few, if any, obtained abortions in these states.

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[290] Frances Stead Sellers and Fenit Nirappil,"Confusion post-Roe Spurs Delays, Denials for Some Lifesaving Pregnancy Care", The Washington Post, 16 July 2022, https://www.washingtonpost.com/health/2022/07/16/abortion-miscarriage-ectopic-pregnancy-care/

[291] Ashley Redingerm, et al., *Incomplete Miscarriage*, 27 June 2022, StatPearls, https://www.ncbi.nlm.nih.gov/books/NBK559071/

[292] KFF, *Policy Tracker: Exceptions to State Abortion Bans and Early Gestational Limits*, last updated 29 July 2024; https://www.kff.org/womens-health-policy/dashboard/exceptions-in-state-abortion-bans-and-early-gestational-limits/

[293] KFF, *Policy Tracker: Exceptions to State Abortion Bans and Early Gestational Limits, last updated 29 July 2024;* https://www.kff.org/womens-health-policy/dashboard/exceptions-in-state-abortion-bans-and-early-gestational-limits/

[294] Callie Marie Rennison, Ph.D., *Rape and Sexual Assault: Reporting to Police and Medical Attention, 1992-2000*, U.S. Dept. of Justice, Office of Justice Programs (Aug. 2002), available at https://bjs.ojp.gov/content/pub/pdf/rsarp00.pdf.

[295] Samuel L. Dickman, MD, Kari White PhD, David U. Himmelstein, MD, et al, "Rape Related Pregnancies in the 14 US States With Total Abortion Bans, Journal of American Medicine, 24 January 2024; https://jamanetwork.com/journals/jamainternalmedicine/article-abstract/2814274

OHIO

In June 2022, a physician in Indiana received a phone call from a child abuse physician in Ohio. Given Ohio's near total abortion ban after six weeks gestation at that time, the doctor needed to get the patient, a 10-year-old child and rape victim, medical treatment out of state. [296] The child had been raped by a 27-year-old man, who has confessed to raping the child at least twice, in Franklin County, Ohio. After learning of the child's condition and that she was approximately six weeks and three days pregnant, the Ohio physician was eager to get the patient across state lines to Indiana, where she could still be treated and get the necessary medical care to terminate the pregnancy. The girl's mother had reported the rape to Franklin County's Children Services agency, which referred a complaint to Columbus, Ohio police on June 22nd. The girl's pregnancy was terminated in Indianapolis, Indiana, on June 30, 2022.[297]

5.6 EXCEPTIONS IN CASES OF FATAL OR SEVERE FETAL ANOMALY

Eleven states with abortion bans or restrictions allow for exceptions in the case of fatal birth anomalies.[298] As with health "exceptions," fatal and severe anomalies are poorly defined. Only Louisiana provides a comprehensive list of conditions under this category; even then, the applicability of this exception is unclear as the state has multiple, overlapping abortion bans in effect, including one that does not include exceptions for fetal anomalies.[299]

ANONYMOUS, ALABAMA

A woman and her husband, excited about expecting their second child, faced devastating news just before Christmas when tests indicated an 87% chance their fetus had Down syndrome. Subsequent scans revealed severe health issues, including swelling, a heart defect, and a significant abdominal tumor. Doctors advised that the baby's chances of survival were minimal. The woman decided to try and seek an abortion in Alabama, where abortion is severely restricted, but where exceptions can technically be made for fatal birth defects and filled out all the required paperwork. An abortion needed to be approved by several hospital

[296] David Folkenflick, et al., "A Rape, an Abortion, and a One-Source Story: a Child's Ordeal Becomes National News," NPR, 13 July 2022, https://www.npr.org/2022/07/13/1111285143/abortion-10-year-old-raped-ohio
[297] David Folkenflick, et al., "A Rape, an Abortion, and a One-Source Story: a Child's Ordeal Becomes National News," NPR, 13 July 2022, https://www.npr.org/2022/07/13/1111285143/abortion-10-year-old-raped-ohio
[298] KFF, *Policy Tracker: Exceptions to State Abortion Bans and Early Gestational Limits, last updated 29 July 2024;* https://www.kff.org/womens-health-policy/dashboard/exceptions-in-state-abortion-bans-and-early-gestational-limits/
[299] Mabel Felix, et al., *A Review of Exceptions in State Abortion Bans: Implications for the Provision of Abortion Services*, KFF (6 June 2024), https://www.kff.org/womens-health-policy/issue-brief/a-review-of-exceptions-in-state-abortions-bans-implications-for-the-provision-of-abortion-services/

committees made up of doctors. The woman's specialist called her to tell her that, while one committee had approved the abortion, a higher-level committee denied permission. "The other thing that was happening was the state district attorney in Alabama was also going on the news and actively talking about pursuing convictions for anybody in performing abortions in Alabama," she said. The woman ultimately had to travel out of state to Virginia for the procedure.[300]

ANONYMOUS, TENNESSEE

A woman discovered that her fetus had serious anomalies at 20 weeks. In January 2023, her doctor informed her that these severe anomalies would likely result in miscarriage. If the woman were able to give birth, her baby would need multiple surgeries, which the infant would be unlikely to survive. The anomalies included brain damage, a bladder located outside of the body and severe spina bifada that left the spinal cord and nerves exposed. Because of Tennessee's abortion ban, the woman and her husband began looking for places outside the state to get assistance in terminating the pregnancy. She told news outlets "[t]hose three weeks were really bizarre, challenging, painful – beyond what it needed to be." Due to increased demand in states where abortion is still legal, she could not get an appointment for three weeks. She was eventually able to travel to Washington, DC. With the assistance of an abortion fund and a local church, the woman had some financial support for the travel cost and procedure expenses but still had to pay $10,000 out of pocket. As a result of the more than three-week delay in accessing abortion care, the woman's procedure went from a one-day to a two-day protocol.[301]

ANONYMOUS, IDAHO

A woman discovered during a routine 12-week scan that her fetus had Turner syndrome, a chromosomal abnormality that meant less than a 1% chance of survival. Continuing the pregnancy posed risks to her health and would most likely end in a miscarriage or stillbirth. Due to Idaho's abortion ban, the woman was forced to travel out of state to Oregon to get an abortion. She said seeking an abortion in another state made her "feel like a criminal." At the clinic, she was met with empathy, with staff acknowledging the difficulty of her situation. She remarked, "I shouldn't have had to leave my state and travel hundreds of miles to do this."[302]

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[300] Nadine El-Bawab, "Alabama Woman Denied An Abortion Despite Fetus 'Negligible' Chance of Survival," ABC News, 2 May 2023, https://abcnews.go.com/US/alabama-mother-denied-abortion-despite-fetus-negligible-chance/story?id=98962378

[301] Carter Sherman, "Her Abortion Experience Was Bizarre and Painful- Now She's Suing Tennessee," The Guardian , 4 April 2024; https://www.theguardian.com/us-news/2024/apr/04/tennessee-abortion-ban

[302] Kelcie Moseley-Morris, "Her Fetus Had a 1% Chance of Survival. Idaho's Ban Forced Her To Travel for An Abortion," Idaho Capital Sun, 10 May 2023, https://idahocapitalsun.com/2023/05/10/her-fetus-had-1-chance-of-survival-idahos-ban-forced-her-to-travel-for-an-abortion/

ANONYMOUS, FLORIDA

A woman was forced to carry to term a pregnancy though the fetus had no kidneys and died shortly after birth in Florida. At 24 weeks, an ultrasound showed that the fetus did not have kidneys and that her fetus had hardly any amniotic fluid [Potter Syndrome]. Not only was the baby going to die, her doctors told her, but the pregnancy put her at an exceptionally high risk of preeclampsia, which can cause death. Her doctors told her it was too late to terminate the pregnancy in Florida, which banned nearly all abortions after 15 weeks [at that time]. Even though the law allowed for an exception for a "fatal fetal abnormality," after weeks of waiting, she was told that the doctor could not terminate the pregnancy. The law is not clear on what constitutes a "terminal condition," and any doctor found to violate the abortion laws in the state could face prison. The woman and her husband didn't have the money to travel out of state to get an abortion.[303]

ANONYMOUS, OKLAHOMA

In early 2023, a woman and her husband were excited to learn that she was pregnant. However, within weeks, she began experiencing severe pain, dizziness, and nausea. After two visits to the local emergency room, the woman's OBGYN diagnosed her with a partial molar pregnancy, a condition that posed serious risks to her health and life. Despite her deteriorating condition, she did not receive the necessary treatment at the University of Oklahoma Medical Center (OUMC). Instead, she was moved to Oklahoma Children's Hospital, where she was informed that she could die without treatment. The woman and her husband pleaded with the hospital staff for an abortion but were told that it could only be performed if she was actively crashing or on the verge of a heart attack. In the meantime, the best that they could offer was to let her sit in the parking lot so that she would be close to the hospital when her condition further deteriorated. As her condition worsened, the woman had to leave the state to receive the life-saving care she needed, traveling for three hours by car during a medical emergency.[304]

[303] Elizabeth Cohen, "Because of Florida Abortion Laws, She Carried Her Baby to Term Knowing He Would Die," CNN, 3 May 2023, https://www.cnn.com/2023/05/02/health/florida-abortion-term-pregnancy/index.html

[304] *Jaci Statton c/o Center for Reproductive Rights v. OU Medicine, Inc. d/b/a OU Health*, Administrative Complaint Filed with U.S. Dept. of Health and Human Services (12 Sept. 2023), https://reproductiverights.org/wp-content/uploads/2023/09/Jaci-Statton-Emtala-Complaint-FINAL-SUBMITTED.pdf

KARI WHITE, RESEARCHER, TEXAS

I've seen and heard of a lot of collateral effects from abortion bans – stories from clinicians and the research world. There was one patient pregnant with twins. One of the twins died in utero, which presents a real risk of subsequent infection and possibly loss of the second twin, and in that context, there is legal hair-splitting at the hospital/institution because of liability and unclear laws. It's a nuanced issue.

Another story I remember – it was a multiples pregnancy – there was lag time with what to do when one of the babies was in critical condition. The patient had to travel out of state to get care. They lost both babies because of the delay and physicians taking time in trying to navigate the law. There is real burnout amongst providers – many can't handle being put in this position and not being able to help patients and they leave the state. It's really people who are galvanizing or have deep roots in Texas who are staying and attempting to keep practicing in this environment. [305]

5.7 IMPACT OF ABORTION BANS ON EMERGENCY MEDICINE PRACTITIONERS

"So, the question of what's an emergency becomes such a theoretical question. Lawmakers feel like it's clear, but it's not clear. It's not how we practice medicine."[306]

– Clinician (name withheld), 26 October 2023

Sadly, many critical medical cases fall outside of the criteria for exceptions to abortion bans or do not give rise to exceptions being actioned. The tragic outcomes that may result impact badly on the mental health of physicians as well as on the mental and physical health of patients. This is one of the key triggers pushing clinicians to move to states where their practice of medicine is not constrained. (See also Chapter 2.4)

[305] Amnesty International interview with Kari White, Researcher Resound Reproductive Health, formerly UT Austin, Austin, TX, 17 October 2023.

[306] Amnesty International interview with Anonymous Doctor, remote interview conducted via Zoom, Dallas, TX, 26 October 2023.

TEXAS

A doctor providing emergency care for pregnant patients made the decision to leave Texas after he was faced with an untenable situation in his practice. A patient, pregnant with identical twins, one of whom was not viable, came to him for medical treatment. Because of Texas's abortion ban, he could not provide care and was forced to send the patient hundreds of miles away. The doctor knew that because identical twins share a placenta, if one of the fetuses was not viable and no medical intervention took place, the other fetus was at risk. Prior to *Dobbs*, the doctor could have used a selective, lifesaving procedure to stop blood flow to the nonviable fetus in order to save the other fetus. He saw his patient break down in tears in his office. The case deeply impacted the doctor, who has since relocated his family and practice to Massachusetts, a state currently without bans on abortion.[307]

Practitioners interviewed by Amnesty International described cases involving patients receiving delayed and sub-par care–some with fatal consequences–all due to legal restrictions or confusion as to how the laws in particular states applied to the patient and pregnancy. Practitioners expressed disbelief, frustration, horror, remorse, and burnout in their experiences attempting to provide care in conflict with their duties and medical training.

ANONYMOUS PHYSICIAN, TEXAS

We knew Roe would be overturned; what changed significantly for us was the decrease in care. We had to start coordinating with other doctors who wanted to help. We had already developed this secret text network of OBGYNs across the state reaching out to each other to see where patients could get care. We would have to coordinate care for really complex cases because every hospital interpreted the law differently.[308]

[307] Poppy Noor, "The Doctors Leaving Anti-Abortion States: I Couldn't do My Job at All," The Guardian, Oct. 26, 2022; https://www.theguardian.com/world/2022/oct/26/us-abortion-ban-providers-doctors-leaving-states

[308] Amnesty International interview with Anonymous Doctor, Texas, 26 October 2023.

ANONYMOUS DOCTOR, LOUISIANA

An oncologist specializing in cancers of reproductive organs told National Public Radio that cancer patients with a less serious diagnosis might be denied abortions they need to start treatment, like chemotherapy. It will just depend on their doctor's interpretation of the law. "If people are skittish, and if you're risk averse as a physician, you might just not want to even go down that road as an option. You know, it's like inviting legislators and administrators and politicians into the exam room."[309]

ANONYMOUS DOCTOR, LOUISIANA

Many of the specialists who are skilled at these types of cases where the patient is farther along in their pregnancy and develops a fetal anomaly have left the state.

I end up caring for a lot of patients who don't have doctors because a lot of doctors don't want to see patients in the first trimester. They'd rather wait until the risk of miscarriage decreases; they don't want to take on the risk. A lot of us are spending time consulting with colleagues and discussing what they think is reasonable in cases. A lot more pressure and time is being demanded from high-risk pregnancy doctors for these types of consults than before. No one wants to be the only one making the call to provide emergency care.

So we are going to these maternal fetal medicine doctors, and they are frustrated because of burnout and many of these cases are ones we should be able to manage. Hospital policies are requiring two signatures and consults and sign offs that didn't exist before. There is a trickle-down effect of these restrictions and bans. We used to train students on how to perform abortions; there were clinics here where they could learn. It is a part of OBGYN care. Now we have to send them out of state. [310]

[309] Rosemary Westwood, "Louisiana's Abortion Ban has Doctors Worried About Patients — and Their Own Careers," NPR, 10 Aug. 2022; https://www.npr.org/2022/08/10/1116802767/louisianas-abortion-ban-has-doctors-worried-about-patients-and-their-own-careers

[310] Amnesty International Interview with Anonymous Doctor via Zoom; Baton Rouge, LA, 19 March 2024.

ANONYMOUS, TEXAS

We don't force people to make health decisions that are bad for them ever – we allow it as doctors but we don't force it – except in this area. Except for women. We are forcing them here to do things that we know will harm their health.

Sure, there are clear cases – you have a patient who is 10 weeks pregnant and has cancer. She needs the chemotherapy to live, but it will kill the fetus. People with heart conditions have a 40 to 50% maternal death rate. Treating them is fairly straightforward; but it's not always like that. Doctors don't want to be in the position of deciding whose reasons are valid. We are supposed to lay out the risks and the patient is supposed to make the decision; that's not what we do in this country anymore. [311]

DR. CHRIS CREATURA, NEW YORK

Abortion policy in the USA is government-endorsed gender violence. Abortion bans have downstream effects that force doctors to withhold care and avoid providing patients with informed consent. Forced childbirth cannot be the solution to an unintended pregnancy. It is state-sponsored torture. We wouldn't tolerate this anywhere else in medicine. The nonsense about health exceptions for "substantial impairment of a major bodily function" just provides cover for anti-abortion politicians and other misogynists. There are no medically unnecessary abortions because every pregnancy is a health threat and each presents a time-sensitive emergency. Maternal and infant mortality and morbidity rates have already increased in states with abortion restrictions, but these statistics fail to capture most of the long term and irreversible impact of pregnancy and childbirth. The downstream effects of banning evidence-based healthcare are severe, and they impact everyone.

The practice of my profession is being decimated by lawmakers without any medical expertise, and they are deciding what my colleagues can do and say. The most profoundly affected are obstetricians and gynecologists, but other medical specialities are impacted. Who will choose to work or train or build a life in a state in which we cannot provide the standard of care to our patients, or access it for ourselves? The majority of healthcare providers are people capable of pregnancy, and neither they nor their families will feel safe or free to make a home in a state in which they will need evidence-based care that has been made illegal. We will have provider shortages and substandard care everywhere that healthcare bans are in place. It's not just about abortion. Involuntary pregnancy and childbirth is a major preventable cause of human suffering. We have a right to be free of inhumane treatment.[312]

[311] Amnesty International interview with Anonymous Doctor, conducted via Zoom, Fort Worth, TX, 31 March 2024.
[312] Amnesty International interview with Dr. Chris Creatura, conducted via Zoom, New York, NY, 28 March 2024.

Unless these severe risks to the provision of emergency medical treatment are addressed, already high rates of maternal mortality in the United States are likely to increase dramatically. Increases in maternal death rates will disproportionately impact Black, Native American and Alaska Native pregnant people, who experience higher rates of pregnancy-related death than other identities[i]. The disparate impact of abortion bans is explored in Chapter 6.

6. DISPARATE IMPACT OF ABORTION BANS

> **"The current rollback of abortion rights and access in the US undermines the health and self-determination of Black, Indigenous and other communities of color. It is a form of racial discrimination that allows predominantly white politicians and other decision makers extraordinary power over the lives, families, and health outcomes of people of color."**
> *– Monica Simpson, Executive Director of SisterSong Women of Color Reproductive Justice Collective,*[313]

6.1 BACKGROUND TO INEQUALITIES

State abortion bans and restrictions in nearly half of the United States are layered upon complex webs of inequity in healthcare, education, housing, and income. As such, they have a disproportionate impact on the most marginalized communities, who already face multiple and intersecting forms of discrimination. Individuals may be in one or many groups experiencing structural oppression in the US: Black people, Indigenous people, undocumented immigrants, transgender individuals, people living in rural areas, those experiencing poverty. These groups often lack access to contraception and other sexual and reproductive healthcare information and services, including prenatal and maternal healthcare services and abortion care.

Most people in the United States rely on private health insurance, often employment-based, but more marginalized populations, including low-income people, people with certain disabilities, and American Indian and Alaska Native people, receive healthcare through federally funded programs.[314]Federal policies have institutionalized a two-tier system whereby individuals who rely on federal funding for healthcare are not eligible

[313] Monica Simpson, SisterSong Women of Color Reproductive Justice Collective, at UPR of US re CERD; https://reproductiverights.org/un-cerd-us-abortion-maternal-health-racial-discrimination/
[314] U.S. Dept. of Commerce, Census Bureau, *Health Insurance Coverage in the United States: 2022*, September 2023, https://www.census.gov/content/dam/Census/library/publications/2023/demo/p60-281.pdf

for abortion care.[315] Access to healthcare and insurance coverage is already an issue across the US but, for decades, policies such as the Hyde Amendment (see 1.2.1) have allowed abortion care to be singled out as a category of healthcare not be covered by federal funds. The Hyde Amendment functions as a de facto abortion ban for all those relying on federally funded care and has been found to disproportionately harm Indigenous people, racial and ethnic minorities, people with disabilities, LGBTQI+ individuals, and young people. [316] State abortion bans and restrictions have compounded these inequalities, leaving those affected with a further heightened risk of forced births and maternal deaths.

6.1.2 HUMAN RIGHTS AND LEGISLATIVE CONTEXT

The US is a party to numerous treaties and conventions, including the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture (CAT), and the Convention on the Elimination of all forms of Discrimination (CERD), which oblige it to uphold human rights and access to abortion for all individuals regardless of background. Additionally, the US has signed the UN Declaration on Indigenous Peoples, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), and has an obligation not to breach the object or purpose of these treaties. Preventing individuals from having access to abortion care and exercising bodily autonomy is a clear violation of US obligations under international law (as detailed in the International Law chapter in the Appendix.

Activist Nadine Seiler attends a rally in front of the US Supreme Court after the Supreme Court decision on Dobbs. (Roberto Schmidt/AFP via Getty Images)

[315] S. Marie Harvey, et. al., *The Dobbs Decision — Exacerbating U.S. Health Inequity,* N. Engl J Med, , 15 April 2023, https://www.nejm.org/doi/full/10.1056/NEJMp2216698

[316] National Health Law Program, *Hyde Amendment Exacerbates Abortion Access Crisis but States Show Path Forward*, 28 September 2023, https://healthlaw.org/hyde-amendment-exacerbates-abortion-access-crisis-but-states-show-path-forward/

It was a Supreme Court review of Mississippi's 2018 Gestational Age Act, banning most abortions in the state after 15 weeks of pregnancy, that led in 2022 to the landmark *Dobbs v. Jackson Women's Health Organization* decision that overturned *Roe v. Wade* and the longstanding constitutional right to an abortion. Multiple advocate groups filed Amicus briefs (a legal document filed with the court to provide information on a case) outlining the ways in which abortion bans and restrictions disproportionately impact already marginalized communities.

- Birth equity organizations noted that Black women are more likely to experience adverse maternal health outcomes than any other group, both in Mississippi and in the United States, more generally. These disparate outcomes reflect a lengthy history of state-sanctioned, racially motivated policies and practice. Additionally, the pregnancy-related mortality ratio in Mississippi is three times greater for Black women than their white counterparts.[317]

- Indigenous rights advocates documented how Indigenous people suffer the highest rates of sexual violence, Indigenous adolescents are particularly vulnerable to assault and unwanted pregnancies, and that Indigenous women suffer high maternal mortality rates. The brief noted how the abortion ban would fuel historic disparities and increase health risks for future Indigenous populations.[318]

- LGBTQI+ advocates argued that the ban would add another hurdle to reproductive healthcare access for a community that is already at risk for poverty, domestic violence, and worsened health outcomes, while also being more likely to face discrimination and be under or uninsured. [319]

- Disability rights advocates argued that the 15-week ban would undermine the ability of persons with disabilities to make autonomous decisions about terminating their pregnancies as they often lack access to healthcare, in particular sexual and reproductive healthcare, that is accessible and tailored to their individual health needs—all of which is compounded by narrow timeframes for abortion care.[320]

[317] Birth Equity Organizations Amicus Brief in *Dobbs v. Jackson Women's Health* available at https://reproductiverights.org/wp-content/uploads/2021/09/Birth-Equity-Organizations-Amicus-Brief.pdf
[318] Native American Communities Amicus Brief in *Dobbs v. Jackson Women's Health*; available at https://reproductiverights.org/wp-content/uploads/2021/09/Native-American-Community-Brief.pdf
[319] LGBTQ Organizations Amicus Brief in *Dobbs v. Jackson Women's Health*, available at https://reproductiverights.org/wp-content/uploads/2021/09/LGBTQ-Organizations-Amicus-Brief.pdf
[320] Disability Rights Organizations Amicus Brief in *Dobbs v. Jackson Women's Health*, available at https://reproductiverights.org/wp-content/uploads/2021/09/Disability-Rights-Organizations-Brief.pdf

6.1.3 LOW-INCOME CONTEXT

> **Some women, especially women of means, will find ways around the State's assertion of power. Others – those without money or childcare or the ability to take time off from work – will not be so fortunate.**
> *– Justices Stephen Breyer, Sonia Sotomayor, and Elena Kagan, dissenting opinion, Dobbs v. Jackson Women's Health Organization*[321]

Low-income and lack of health insurance are prevalent problems within marginalized communities. The landscape is particularly bleak for marginalized people living in states with the most restrictive abortion bans, where people who may become pregnant tend to have less access to healthcare, worse health outcomes, and a lack of financial assistance.[322]

Between 2015 and 2022, 10.2 percent of females aged 18-64 in the US had no health insurance, meaning they had little to no access to health services such as contraception, pregnancy care and/or abortion access.[323] Medicaid, the only federal health coverage plan for people on low incomes, generally does not cover claimants for abortion costs as these are excluded by the Hyde Amendment (see Chapter 1.2.1). States that allow abortion may use state funding to pay for abortions under Medicaid, but only around half of such states do so.[324] Indeed, some states expressly prohibit abortion coverage in state-regulated private insurance plans.[325] Research indicates that low-income individuals, people of color, and non-citizens are at greater risk of being uninsured,[326] and are thus much less likely to have access to abortion care.

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[321] United States Supreme Court, *Dobbs v. Jackson Women's Health Organization*, 24 June 2022, https://www.supremecourt.gov/opinions/21pdf/19-1392_6j37.pdf

[322] Center for American Progress, "State Abortion Bans Will Harm Women and Families' Economic Security Across the U.S.", 25 August 2022, https://www.americanprogress.org/article/state-abortion-bans-will-harm-women-and-families-economic-security-across-the-us/; National Public Radio, "States with the toughest abortion laws have the weakest maternal supports, data shows", 18 August 2022; https://www.npr.org/2022/08/18/1111344810/abortion-ban-states-social-safety-net-health-outcomes

[323] KFF, *Women's Health Care Coverage,*13 December 2023; https://www.kff.org/womens-health-policy/fact-sheet/womens-health-insurance-coverage/

[324] KFF, *What are the Implications of the Dobbs Ruling for Racial Disparities*, 24 April 2024, https://www.kff.org/womens-health-policy/issue-brief/what-are-the-implications-of-the-dobbs-ruling-for-racial-disparities/

[325] KFF, *What are the Implications of the Dobbs Ruling for Racial Disparities?,* 24 April 2024, .https://www.kff.org/womens-health-policy/issue-brief/what-are-the-implications-of-the-dobbs-ruling-for-racial-disparities/

[326] KFF, *Women's Health Care Coverage*, 13 December 2023, https://www.kff.org/womens-health-policy/fact-sheet/womens-health-insurance-coverage/

A protestor in Long Beach, CA. (Brittany Murray/MediaNews Group/Long Beach Press-Telegram via Getty Images)

6.1.4 THE INFLUENCE OF HISTORIC RACISM AND ETHNOCENTRISM ON BARRIERS TO ABORTION

The US has a long history of racist and ethnocentric practices against minority communities, particularly in the field of sexual and reproductive health. Such practices include forced sterilization, medical experimentation, and limiting or reducing midwifery and other traditional forms of care within communities of color.[327] Discrimination persists in the field of sexual and reproductive healthcare in the US, with women of color regularly reporting subpar treatment, dismissive attitudes by healthcare providers and assumptions of stereotypes.[328] This disparate treatment creates an environment of mistrust between communities and their medical providers, which can impact care and, ultimately, bodily autonomy. General maternal mortality rates in the US are inexcusably high. The United States has the highest maternal mortality rate as compared to any other high-income country in the world, and the rate is worsening, as is the racial disparity gap of maternal mortality rates within the United

[327] KFF, *How History Has Shaped Racial and Ethnic Health Disparities: A Timeline of Policies and Events,* https://www.kff.org/how-history-has-shaped-racial-and-ethnic-health-disparities-a-timeline-of-policies-and-events/; see also Zara Abrams, "Abortion bans cause outsized harm for people of color, 14 April 2023, Monitor on Psychology, Vol. 54. No. 4, https://www.apa.org/monitor/2023/06/abortion-bans-harm-people-of-color

[328] KFF, *Survey on Racism, Discrimination and Health: Experiences and Impacts Across Racial and Ethnic Groups,* 5 December 2023, https://www.kff.org/report-section/survey-on-racism-discrimination-and-health-findings/; see also Zara Abrams, "Abortion Bans Cause Outsized Harm for People of Color, 14 April 2023, Monitor on Psychology, Vol. 54. No. 4, https://www.apa.org/monitor/2023/06/abortion-bans-harm-people-of-color

States.[329] The rates of maternal mortality are significantly higher for American Indian and Alaska Native and Black populations in the United States.[330]

Data shows that people of color living in states with restrictive abortion laws are more likely to be uninsured than those living in states with more abortion access.[331] This lack of access to insurance and potential care now combined with heightened restrictions to potentially critical or lifesaving abortion care, is likely to heighten relative Black and Indigenous maternal death rates still further.[332]

[329] The Commonwealth Fund, *The U.S. Maternal Mortality Crisis Continues to Worsen: An International Comparison*, 1 December 2022, https://www.commonwealthfund.org/blog/2022/us-maternal-mortality-crisis-continues-worsen-international-comparison#:~:text=The%20Commonwealth%20Fund-,Reginald%20D.,access%20to%20comprehensive%20postpartum%20support

[330] Center for Disease Control, *Maternal Mortality Rates in the United States, 2023*, https://dx.doi.org/10.15620/cdc:124678

[331] Latoya Hill, Samantha Artiga, Usha Ranji, Ivette Gomez and Nambia Ndugga, *What are the Implications of the Dobbs Ruling for Racial Disparities*?, KFF, April 24, 2024, https://www.kff.org/womens-health-policy/issue-brief/what-are-the-implications-of-the-dobbs-ruling-for-racial-disparities/(Among women ages 18-49, roughly a fifth of AIAN (22%) and Hispanic (21%) women are uninsured as are 14% of NHPI women and 11% of Black women compared with less than one in ten (7%) of White women. Moreover, uninsured rates for women ages 18-49 are at least twice as high in states that banned abortion compared to those in states with broader access for White (10% vs. 5%), Hispanic (33% vs. 15%), Black (14% vs. 7%), and Asian (10% vs. 5%) women, and nearly three times higher for NHPI women (29% vs. 10%)).

[332] KFF, *What are the Implications of the Dobbs Ruling for Racial Disparities*?, 24 April 2024, https://www.kff.org/womens-health-policy/issue-brief/what-are-the-implications-of-the-dobbs-ruling-for-racial-disparities/ (As of 2021, the abortion rate was 28.6 per 1,000 women among Black women, compared to 12.3 per 1,000 among Hispanic women, and 6.4 per 1,000 among White women).

6.2 IMPACT OF ABORTION BANS ON BLACK PEOPLE

LOUISIANA

According to Louisiana's Department of Health, racial disparities exist in maternal mortality statewide. Thirty-seven percent of all births in Louisiana in 2020 were among non-Hispanic Black women, but non-Hispanic Black women accounted for 62% of all pregnancy-associated deaths.[333] Many of these deaths were "potentially preventable."[334] Louisiana ranks 47 out of 48 states reporting on maternal mortality outcomes. Four Black pregnant people die for every one white counterpart in the state.[335] Disparities in pregnancy-related health outcomes are linked to systemic inequities in Louisiana as well as discriminatory care given to uninsured, low-income, and people of color who may be pregnant.[336]

Up to 60% of Black women in the US now live in states with restrictive abortion laws, and are among the most impacted by the *Dobbs* decision.[337] Black women make up 13% of the female population of the United States but account for some 42% of abortions, with need for abortions the highest of any group.[338] Experiences of lower socioeconomic status, racial discrimination, and restricted access to healthcare, including to more effective forms of contraception, help account for increased likelihood of unintended pregnancies and higher need for abortion care. Where access to abortion is denied, the risks of adverse socio-economic and health outcomes, and of maternal mortality greatly increase.[339]

Maternal mortality rates among Black women in the US are more than double that of white women at 69.9 deaths per 100,000 live births in 2021.[340] Pregnancy-related

[333] Louisiana Department of Health, "LDH Releases 2020 Maternal Mortality Report," 10 April 2024, https://ldh.la.gov/news/MMR2020

[334] Louisiana Department of Health, "LDH Releases 2020 Maternal Mortality Report," 10 April 2024, https://ldh.la.gov/news/MMR2020

[335] Louisiana Department of Health," Addressing Disparities in Maternal Health and Child Outcomes for African Americans", 2019, https://ldh.la.gov/assets/docs/LegisReports/SR240HR294RS201992019.pdf

[336] Guiliana Gross, *Dr Veronica Gillispie-Bell Addresses Racial Disparities in Maternity Care*, AJMC, 28 August 2023, https://www.ajmc.com/view/dr-veronica-gillispie-bell-racial-disparities-maternity-care; Politico, "Why Louisiana's Maternal Mortality Rates are So High", 19 May 2022, https://www.politico.com/news/2022/05/19/why-louisianas-maternal-mortality-rates-are-so-high-00033832

[337] Latoya Hill, Samantha Artiga, Usha Ranji, Ivette Gomez and Nambia Ndugga, *What are the Implications of the Dobbs Ruling for Racial Disparities*?, KFF, April 24, 2024, https://www.kff.org/womens-health-policy/issue-brief/what-are-the-implications-of-the-dobbs-ruling-for-racial-disparities/

[338] Anna Kheyfets, et. al., *The Impact of Hostile Abortion Legislation on the United States Maternal Mortality Crisis: A Call for Increased Abortion Education*, 5 December 2023, Front Public Health, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10728320/

[339] Scientific American, *Being Denied an Abortion has Lasting Impacts on Health and Finances*, 22 December 2021, https://www.scientificamerican.com/article/being-denied-an-abortion-has-lasting-impacts-on-health-and-finances/, and Dovile Vilda, et. al. "State abortion policies and maternal death in the United States, 2015–2018", 22 September 2021, American Journal of Public Health, https://doi.org/10.2105/AJPH.2021.306396

[340] Center for Disease Control, "Maternal Mortality Rates in the United States, 2021," https://www.cdc.gov/nchs/data/hestat/maternal-mortality/2021/maternal-mortality-rates-2021.htm

death rates are increasing in the United States, with the highest burden on Black women,[341] and these rates are now likely to increase further, with more high-risk pregnancies forced to continue to term, more unsafe abortions undertaken and fewer general maternity care appointments available.

D'ANDRA, AFIYA CENTER, TEXAS

"I learned about the rates of maternal mortality in the Black female community and that's what brought me to this work. I wanted to become a doula so that I could help Black women give birth safely and not become another statistic. We see people all the time who need help at different stages – so we are there from day one to 13 months after the baby.

We want to help Black birth people because we know the experiences Black people have with health-care providers sometimes: their questions are not answered, they are not treated with compassion, there is no assistance or explanation on dosages and/or interactions with medicine, doctors will often talk over the patient, dismiss them or not trust that they are in pain.

For the Black community, we don't always have the luxury of knowing our relations or health background. Many women have irregular cycles, miscarriages are common. So, we are with them to ensure that they are supported. We can educate the whole family and inform them with facts so that they can make an informed decision about their care."[342]

ANONYMOUS, TENNESSEE

A Black woman in Tennessee learned at 24 weeks that her baby would not survive because of a fatal fetal condition (limb-body-wall complex where the organs develop outside the body), which was devasting as she'd been so excited to be pregnant after losing her 14-year-old son to gun violence. She also had health conditions, including hypertension. Because of her health conditions, the woman was at high risk of a stroke during labor. She could not get an abortion in Tennessee until her health worsened to justify it under state law. She couldn't afford to travel out of state to seek the care she needed. Her water broke when she was seven months pregnant, and she delivered a stillborn fetus. "What we went through was torture that no one else should ever have to face," she said.[343]

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[341] Center for Disease Control, "Maternal Mortality Rates in the United States, 2021", https://www.cdc.gov/nchs/data/hestat/maternal-mortality/2021/maternal-mortality-rates-2021.htm

[342] Amnesty International Interview with D'Andra Willis, Afiya Center, 6 November 2023.

[343] Center for Reproductive Rights, *Blackmon v. State of Tennessee,* https://reproductiverights.org/blackmon-v-tennessee-abortion-ban-medical-exceptions-hearing/

6.2.1 SOCIO-ECONOMIC AND MENTAL HEALTH FACTORS

As discussed above, Black women struggle disproportionately, alongside other minority groups, to secure funding or paid time off to access abortion care, especially where they need to travel out of state to do so. Research suggests that Black women denied abortion care who are forced to carry their pregnancies to term are particularly prone to workplace disparity (including unequal or discriminatory treatment and pay) due to reduced wages and other opportunities in the workplace.[344]

Where Black women do gain access to maternity care, including abortion care, they regularly report receiving inferior treatment and disrespectful, dismissive attitudes by healthcare providers. This can create a gulf of trust, reducing the confidence of Black patients in medical provision, causing emotional and mental health trauma, and creating more demand for alternative means of support.

[344] Brookings Institute,.*What Can Economic Research Tell Us About the Effect of Abortion Bans on Women's Lives*?, 30 November 2021, . https://www.brookings.edu/articles/what-can-economic-research-tell-us-about-the-effect-of-abortion-access-on-womens-lives/

D'ANDRA, AFIYA CENTER, TEXAS

"After Dobbs the demand for [Black] doulas definitely went up because people are being forced to give birth. [We] need to ensure we are offering maternal health but also mental health support. We have seen a lot of trauma recently in our community because of Covid and people forced to be at home with their abusers, health complications, economic issues and on top of that being forced into birth while many are still dealing with postpartum and other issues. It is hard."[345]

KANIYA, WASHINGTON, DC

I'm a college student and was able to access medication abortion pills because of people with whom I've done advocacy work. Post abortion things were complicated for me because I had an ovarian cyst I did not know about. I had been bleeding for more than three weeks…

The doctor I saw in Maryland would not give me information about my condition. They were pushing me to have surgery – saying I had an ectopic pregnancy or ovarian cyst – they weren't clear on which one. They did a pap smear on me but did not explain why. It was incredibly painful. It just did not seem like they cared about me as a patient or wanted to answer my questions. They did three ultrasounds on me in three separate visits and still could not provide clear answers that would help.

I genuinely think they just saw me as a young Black woman, and they did not treat me with respect. Luckily, I had my sister there with me and she could help me navigate and advocate for myself. If I had been able to get in to see someone at a clinic [where I live] in DC, they might have seen that I had an ovarian cyst and helped me to determine treatment options. But, because of the backlog and people traveling to DC from other states, it's impossible to be seen."[346]

[345] Amnesty International Interview with D'Andra Willis, Afiya Center, 6 November 2023.
[346] Amnesty International Interview with Kaniya (las name withheld), 19 March 2024.

6.3 IMPACT ON INDIGENOUS PEOPLE

> **"Simply, policies restricting access to abortion places Native women and their children at greater risk of violence and fatal outcomes."**
> *– Cecilia Fire Thunder, et. al.*[347]

Marginalization, and the *Dobbs* decision, affect American Indian and Alaska Native (AI/AN) [348] women and people who can get pregnant in unique ways. The United States government has specific legal obligations to AI/AN people – currently numbering over 6.5 million people,[349] some 2% of the US population – including in respect of provision of healthcare. It is failing in these obligations regarding access to abortion care.

States with some of the largest Indigenous populations – such as North Dakota, South Dakota, and Oklahoma – have some of the strictest abortion laws.[350] Additionally, most Indigenous women and people who can get pregnant depend for their care on the Indian Health Service (IHS)—a system created by the US, in theory to fulfil its treaty obligations to tribes—which has effectively banned abortion since 1976 when the Hyde Amendment (see 1.2.1) blocked access to federal healthcare funding of abortion.

Across the country, Indigenous women and people who can get pregnant face disproportionate rates of sexual assault, high rates of unintended pregnancy, high rates of maternal mortality, poor access to preventative care and contraception, and inadequate healthcare. In this context, the end of *Roe* has only brought a deepening of human rights failures by the United States in regard to Indigenous women and people who can get pregnant. (See also 6.1.2 above, and, for further detail, international human rights framework chapter in appendix).

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[347] US Supreme Court, *Dobbs v. Jackson Women's Health*, Brief of Amici Curiae, Cecilia Fire Thunder, National Indigenous Women's Resource Center et al,, https://reproductiverights.org/wp-content/uploads/2021/09/Native-American-Community-Brief.pdf

[348] Amnesty International strives to use terminology that respects the wishes of the peoples concerned. It recognizes that this chapter cannot portray the experiences and diversity of Indigenous peoples in the USA. The terms American Indian, Native American and Alaska Native are widely used within the USA itself. Certain terms such as Indian, Indian country and tribal member are used in legal and other discourses in the USA and have been retained in this report where this seems most appropriate. The term Native should be read as referring to American Indian and Alaska Native unless the legal context or parameters of a particular study indicate otherwise. This chapter excludes Native Hawai'ians: Hawai'i's illegal annexation was acknowledged by President Clinton in 1994, and Native Hawaiians fall into a different legal category that AN/AI people, and the Indian Health Service (IHS) does not currently directly operate in Hawai'i.

[349] World Population Review, Native American population by state, 2024, https://worldpopulationreview.com/state-rankings/native-american-population

[350] The 19th, " Indigenous People Unite to Navigate Abortion Access After Roe", 11 October 2023, https://19thnews.org/2023/10/indigenous-people-abortion-access/

ANONYMOUS, SOUTH DAKOTA

An Indigenous person from South Dakota drove their friend more than nine hours to Colorado for an abortion in 2022 (after South Dakota banned abortion following the Dobbs ruling). They had taken the same journey to the same abortion clinic for themselves in 2016, well before Dobbs, when abortion care was not yet legally banned in South Dakota but was still inaccessible, particularly to Indigenous people. In 2016, they couldn't afford a hotel so had to sleep in a tent near a horse pasture, bleeding and in pain following the procedure. They were uncomfortable going to Indian Health Service (IHS) to seek follow-up care. Even before Dobbs, IHS has been restricted by the Hyde Amendment, which prevents the use of federal funds for abortions (except in cases of rape, incest, or threats to a mother's life, exceptions which in many cases the IHS was not implementing). The Indigenous person told reporters, "[w]e're already an oppressed community, and then we have this oppression on top of that oppression." Abortion care options for Indigenous people were already extremely limited pre-Dobbs; now the distance to the nearest abortion provider has increased by hundreds of miles for some Indigenous communities.[351]

6.3.1 FEDERAL TRUST RESPONSIBILITY

Historic treaties, the US Constitution, and federal law affirm a unique political and legal relationship, known as "the trust responsibility," between federally recognized tribal nations and the US. This places on the US government a unique legal obligation to ensure the protection of the rights and well-being of AI/AN peoples, including their rights to comprehensive, high-quality, and culturally competent healthcare. The IHS is part of the US Department of Health and Human Services and is the principal, and in some areas sole, provider of health services for AI/AN people.

Indigenous women have themselves repeatedly reaffirmed the right to abortion as central to Indigenous identity and the trust responsibility, including in the "Agenda for Native Women's Reproductive Justice," which was first drafted in 1990, then updated in 2000 and again in 2020. The Agenda notes that:

> **"Indigenous women are leaders in asserting human rights as we protect our families, Native lifeways and lands. Indigenous women and two-spirit people have the right to live free from violence and to address the reproductive justice issues that we face through the process of self-determination in order to respect and restore our Indigenous life ways. [...and t]he right**

[351] AP New, "Post Roe Native Americans Face Even More Abortion Hurdles", 14 February 2023, https://apnews.com/article/abortion-us-supreme-court-oklahoma-sd-state-wire-south-dakota-24541ed0e66b5e1e1cd8b84e7e2e3159

to access safe, free, and/or affordable abortions, regardless of age, with confidentiality and free pre- and post-counseling."[352]

6.3.2 HISTORIC VIOLENCE AND REPRODUCTIVE COERCION

> **"The federal government has attempted to control Native women's reproductive decisions for centuries. From targeted killings to forced sterilization, from child removal to prescribing dangerous long-term birth control, Native people have struggled to have the right to choose if, when, and how to have children."**
> *– Sarah Deer (Muskogee [Creek]), University of Kansas[353]*

The *Dobbs* decision and its impact on Indigenous women must be understood through a lens of historic and continual violence against Indigenous peoples in the US, which has often been enacted on the bodies of Indigenous women. European/US colonizers forcibly relocated many Indigenous peoples from their land, committing widespread atrocities in the process; gender-based violence against women by settlers was used as part of conquest and colonization.

In the 1970s, the US government began a program of mass forced and coerced sterilization of AI/AN women performed through the Indian Health Service.[354] In the 1980s, the House of Representatives investigated allegations that AI/AN women were being injected with Depo Provera by IHS (a long-acting contraception) without their informed consent and decades before the FDA had approved it; the IHS director at the time admitted to Congress that the "consent forms were deficient".[355] Many Indigenous peoples see abortion bans and restrictions in the larger context of the US government's efforts to control Indigenous peoples' sexual and reproductive rights.

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[352] Native American Women's Health Education Resource Center, "Indigenous Women's Reproductive Justice Agenda", 31 July 2020, https://nativeshop.org/images/pdf/2020-reproductive-justice.pdf?fbclid=IwZXh0bgNhZW0CMTAAAR1-O6UKiK8j83gYab0v-d55vUvEtIsE2Fc0KbftaEI6oaZbww0ODyItigY_aem_ARVmRa8O_oFDPdaEgcM3MQOqSyYUD_5-WGUxSbOcy-eJoDq33FWeHILpNMsfbmzecdKqJw8ycEW41aqF6I3pmaKz

[353] National Indigenous Women's Resource Center, "Advocates Speak Out on Potential Overturn of Roe as Final Decision in Dobbs Looms Cite", June 2022, https://www.niwrc.org/restoration-magazine/advocates-speak-out-potential-overturn-roe-final-decision-dobbs-looms

[354] Jane Lawrence, *The Indian Health Service and the Sterilization of Native American Women*, Summer 2000. Am. Indian Quarterly, Vol. 24, No. 3, https://airc.ucsc.edu/resources/suggested-lawrence.pdf; Time "A 1970 Law Led to the Mass Sterilization of Native American Women. That History Still Matters," 28 November 2019, https://time.com/5737080/native-american-sterilization-history

[355] US Supreme Court, *Dobbs v. Jackson Women's Health*, Brief of Amici Curiae, Cecilia Fire Thunder, National Indigenous Women's Resource Center et al at p. 17, https://reproductiverights.org/wp-content/uploads/2021/09/Native-American-Community-Brief.pdf

6.3.3 DISPROPORTIONATE RATES OF VIOLENCE AND MATERNAL MORTALITY

As Amnesty International has previously reported,[356] Indigenous women experience sexual violence at rates far beyond those of other groups. Sexual violence has a direct impact on reproductive health, including physical and emotional harm, high rates of sexually transmitted diseases, and unintended pregnancies.

Pregnancy itself can be a result of abuse, as abusive partners may engage in reproductive coercion, including birth control sabotage, pregnancy coercion, or controlling the outcome of a pregnancy.[357] A National Institute for Justice Study found that 55.5% of AI/AN women have experienced physical violence from an intimate partner (compared with 34.5% experience for non-Hispanic white women); 66.4% have experience physical aggression from an intimate partner.[358]

> **"One [Indigenous] woman in Colorado was being abused by her partner. He had impregnated her a total of 12 times in an attempt to control her. Abortion was key to her escape."**
> *– Name withheld*[359]

Pregnancy is dangerous for Indigenous women not just because of high rates of intimate partner violence, but also because of disproportionally high rates of maternal morbidity and mortality, at more than twice the rates suffered by white women.[360]

6.3.4 INDIAN HEALTH SERVICE BARRIERS TO ABORTION CARE

The Hyde Amendment hinders the ability of all low-income women and people who can get pregnant to terminate a pregnancy, but Hyde discriminates against Indigenous women in particular. While the measure was not directed at Indigenous people, specifically, they are among those most affected due to their reliance on the IHS, which has operated a particularly restrictive Hyde compliance policy allowing exceptions only in the case of risk of maternal death.

Hyde itself was updated in 1978 to add exceptions for pregnancies caused by rape or incest, or causing severe health damage, but the IHS did not update its policy to include

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[356] Amnesty International, *The Never-ending Maze: Continued Failure to Protect Indigenous Women from Sexual Violence in USA,* Index: AMR 51/5484/2022, 17 May 2022, https://www.amnestyusa.org/wp-content/uploads/2022/05/AmnestyMazeReportv_digital.pdf

[357] American College of Obstetricians and Gynecologists, *Reproductive and Sexual Coercion*, February 2013, https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2013/02/reproductive-and-sexual-coercion

[358] André B. Rosay, *Violence against American and Alaska Native women and men* 2016, NIJ Journal, https://www.ojp.gov/pdffiles1/nij/249822.pdf

[359] Amnesty International interview with Name withheld, April 2024.

[360] KB Kozhimannil KB, et. al. *Severe Maternal Morbidity and Mortality Among Indigenous Women in the United States*, February 2020, Obstetrics and Gynecology, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7012336/

these additional exceptions until the policy was updated June 2022,[361] and lack of clarity remains, with conflicting documents and incoherent implementation guidance by IHS. Having performed almost no abortions under previous guidelines[362] it is unclear how many IHS service centers are now equipped to provide abortion services or make referrals to abortion providers, and/or whether IHS abortion care availability has changed.[363]

Due to the drastic lack of abortion access via IHS clinics, Indigenous individuals in need of abortion care are compelled to seek a non-IHS facility, if they are able to travel to one and if they can afford to pay for the abortion care. AI/AN people have the highest poverty rate in the US at 25%, twice the national average. These compounding factors make it much more difficult for Indigenous people to get abortion care outside of IHS, where they should be able to access it but cannot.

> **"It's very indicative how discriminatory that treatment [of reproductive healthcare] is. … Obstetrics has been eliminated from a number of IHS hospitals and clinics. Access to be able to just give birth at IHS is just so much more limited. With a system that exceptionalizes reproductive care, abortion care is even more exceptionalized as a type of care we moralize and allowed to be carved out."**
>
> *– Lauren van Schilfgaarde (Cochiti Pueblo), UCLA School of Law*[364]

The impact of this inadequate care, including the lack of abortion provision, is devastating. Post-*Dobbs*, the search by Indigenous abortion seekers for care outside of IHS clinics, through states that may now offer less care due to their own restrictions or be experiencing increased demand pressures due to bans in neighboring states, becomes ever harder.

> **"The stories I'm hearing are of people struggling to get to other states to access abortion. It's getting even harder. It's become a search of scarcity."**

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[361] Indian Health Service, "Indian Health Manual: Use of Indian Health Service Funds for Abortions", 30 June 2022, https://www.ihs.gov/ihm/circulars/2022/use-of-indian-health-service-funds-for-abortions/

[362] There is limited data for provision of abortion care for Indigenous women. A 2002 study by the Native American Women's Health Education Resource Center found that from 1981 to 2001, all IHS clinics performed only 25 abortions and that 85% of IHS service units surveyed were noncompliant with the official IHS abortion policy and were not equipped to or did not provide abortion services at all. See: https://www.prochoice.org/pubs_research/publications/downloads/about_abortion/indigenous_women.pdf

[363] Adreanna Rodriguez (Standing Rock Sioux), a reporter who was investigating the impact of Dobbs on Native women in 2022, told Amnesty International that in response to a FOIA (Freedom of Information Act) request, IHS provided data suggesting that the rates of abortion care provision have increased since 2016, but they were not able to verify that data." Amnesty International interview with Adreanna Rodriguez, 10 June 2022.

[364] Amnesty International interview with Lauren van Schilfgaarde (Cochiti Pueblo), Assistant Professor of Law, UCLA School of Law, 26 March 2024.

– Abigail Echo-Hawk (Pawnee), Urban Indian Health Institute[365]

"After *Dobbs* there's now just so much more need from those states [with abortion bans] and people are having to travel further. Folks are aware it's going to be harder [because of the bans]. Our callers are minimum wage workers, they take care of their children, other people's children, their parents, their grandparents. Their call to us usually comes with the question: are you even going to be able to help me?"
– Rachael Lorenzo (Mescalero Apache/Laguna Pueblo), Indigenous Women Rising[366]

Indigenous Women Rising (IWR)—a Native-led organization that promotes equitable and culturally safe health options for Native people—is the nation's only Indigenous-specific abortion fund. In October 2023, The 19th News reported that demand for the IWR abortion fund had "skyrocketed": "The group funded 37 abortions in 2019, 600 in 2022 and over 300 in the first six months of [2023]." From January to June of 2023, IWR spent more on funding abortions than in all of 2022.[367] Now, Native people in states with abortion bans and restrictions not only have to seek abortion care outside their IHS facility, as they had always had to do, but they have to travel much further out of state to seek care, which increases the financial burden and can delay care.

"Folks now are not getting the care they need in time under *Dobbs*, and so now they need abortion care much later in term. For some, they just aren't getting access, and they are being forced to give birth. That is appalling. They are being forced into birthing—whether it's a domestic violence situation or where they simply should have been able to make the choice about their own bodies—this forced birthing is not traditional for Indigenous communities."
– Abigail Echo-Hawk (Pawnee), Urban Indian Health Institute[368]

Indigenous women and people who can get pregnant need more access, not less, to abortion. Instead, many of the states with the strictest abortion bans are also states with larger Indigenous populations, meaning that Indigenous people, who have the highest rates of poverty in the country, have to travel greater distances to access abortion care at a greater cost.

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[365] Amnesty International interview with Abigail Echo-Hawk (Pawnee), Executive Director, Urban Indian Health Institute, 21 February 2024.
[366] Amnesty International interview with Rachel Lorenzo (Mescalero Apache/Laguna Pueblo), founder and Executive Director of Indigenous Women Rising, 10 April 2024.
[367] The 19th. "Indigenous people unite to navigate abortion access after Roe", 11 October 2023, https://19thnews.org/2023/10/indigenous-people-abortion-access/
[368] Amnesty International interview with Abigail Echo-Hawk (Pawnee), Executive Director, Urban Indian Health Institute, 21 February 2024.

6.4 DISPARATE IMPACT ON IMMIGRANT AND UNDOCUMENTED PEOPLE

> **"We get people coming here [to our clinic in Illinois] from all over. Mostly south-eastern states: Texas, Minnesota, Idaho, Louisiana, Mississippi, Alabama, Tennessee, Kentucky. Hope Clinic can get patients in for an appointment in under a week. We see a lot of patients who don't speak English."**
> *– Melissa Dunn, abortion clinic escort*[369]

Abortion bans and restrictions have a disparate impact on communities where individuals seeking care may not have immigration status or may come from mixed-status families, in which some family members have citizenship and others do not. Data from KFF details how a large percentage of women aged 18 to 49 are from racial and ethnic groups where noncitizen status is prevalent.[370] Moreover, language barriers and limited access to technology may contribute to racial and ethnic disparities in accessing abortion care. Lack of access to healthcare information in your first language or potentially lack of proper internet access – for example, when lacking permanent accommodation – can impact an individual's ability to locate abortion funds, clinics and other mechanisms for care.

Amnesty International interviewed numerous individuals who described the anxiety and concern of patients without status or from mixed-status families who needed to cross state lines to get abortion access. In certain states, people are afraid to cross state lines because of numerous intra-state immigration checkpoints, aggressive state and local law enforcement resources being directed to immigration enforcement and risks of deportation. This fear is amplified in states where there are "aid or abet" laws and/or laws imposing criminal liability for those who take minors across state lines.

[369] Amnesty International interview with Melissa Dunn, Abortion Access Missouri, Escort at Hope Abortion Clinic Illinois; 7 December 2023.
[370] KFF, *What are the Implications of the Dobbs Ruling for Racial Disparities?,* 24 April 2024, https://www.kff.org/womens-health-policy/issue-brief/what-are-the-implications-of-the-dobbs-ruling-for-racial-disparities/

CATHY TORRES, FRONTERA FUND, TEXAS

Cathy Torres is the organizing manager at Frontera Fund, a financial assistance abortion fund for people residing within 100 miles of the Texas/Mexico border and for undocumented people living in Texas. She told Amnesty International:

Things have changed quite a bit for us, especially at the border. Prior to Dobbs, we had a clinic, Whole Woman's Health, in McAllen, so at the very least there was an abortion clinic here to serve people in and near the Rio Grande Valley. Now there aren't anymore clinics in the Valley, or in the entire state of Texas for that matter. For 10 months after the Dobbs decision, we were unable to fund abortion care due to legal restrictions, but after litigation, as of April 2023 we have been able to fund abortion care for Texas traveling outside of the state. Callers have seen us on TikTok, other social media platforms like Instagram, or have heard of us by word of mouth. We are in the works of developing a "street team" that would help spread the word about Frontera Fund along the border, but it's been a slow process due to capacity.

Today, there is a lot of hesitation and fear from abortion seekers due to misinformation and risk of criminalization. In border areas, there are so many layers of policing, so we need to tread with caution. Texas has created a very hyper-militarized landscape, from City Police to the Department of Public Safety emboldened by Operation Lonestar [a set of border initiatives and policies enabling state law enforcement to arrest people suspected of being undocumented and charge them with crimes, e.g., "trespassing"], to ICE, CBP, Coast Guard, and even the National Guard. Our organization is led by people of color and we live on the border, so we are very aware of what our communities face and take necessary precautions.

When someone reaches out to our helpline for assistance, we provide a voucher to out-of-state clinics that we have a relationship with. The reality is, traveling out-of-state for care is not always a walk in the park for many. In order to travel north to New Mexico or Colorado for example, it is mandatory that border residents pass through a Customs Border Patrol internal checkpoint. Should someone travel south into Mexico, it is required to pass through designated ports of entry. For those who are undocumented or have a differing citizenship status, there is a real risk of deportation or criminalization because of these structures. Laws in Texas have been designed to target undocumented pregnant people and those with mixed status families.[371]

[371] Amnesty International interview with Melissa Dunn, Organizing Manager at Frontera Fund, 12 October 2023.

BLAKE ROCAP, JANE'S DUE PROCESS, TEXAS

What we are seeing is there are folks in the [Rio Grande] Valley, they don't have status. Traveling out of state is really hard for them. People think you can just go to New Mexico or Colorado and get an abortion, but it's not that easy. It's not just about the money. It's about their families, caretakers [people who have responsibilities to take care of their children and/or other family members]. There is a real fear of losing your job. The intersection of abortion bans with immigration policy is key in states like Texas. There hasn't been any guidance – the federal government should put out something that allows for sanctuary so that a pregnant person without status can cross through to another state to access abortion care without being harassed. There are checkpoints everywhere within 100 miles of the border. People are really scared.[372]

LAURA MOLINAR, SUEÑOS SIN FRONTERAS

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I work at the intersection of immigrant rights and repro rights. Our organization, Sueños Sin Fronteras, supports undocumented individuals pre and post birth in San Antonio. A lot of people in our community go to Crisis Pregnancy Centers first- because they need a pregnancy test. Then they are told things like "you'll be deported

[372] Amnesty International interview with Blake Rocap, Legal Director of Jane's Due Process, 13 October 2023.

if you have an abortion." Things to scare them. There is a lot of misinformation and that makes it hard for people in the community to trust health practitioners.

We've been running this organization for six years. It started as a health task force, primarily at the border [with Mexico]. I think about that first trip to McAllen, Texas and working in the clinic, you know, with some of the volunteer physicians and hearing the stories from the women that we encountered who were pregnant, postpartum. And some of them were about to give birth and just hearing their requests for things like emergency contraception because they had been sexually assaulted along their journeys and, you know, held captive by the cartels. And they didn't know whether or not they were pregnant. And, you know, they were asking for things like emergency contraception, birth control. Catholic Charities was operating there, but there was a need for STI testing, emergency contraception and abortion because many of the women had been sexually assaulted along their journey to the US. So, we started this repro justice and immigrant justice collective. They were asking for STI testing… I was just like, "this is a human right, … this is a part of healthcare. You know, people are dying and being oppressed because they don't have access to these basic needs."

All people should have the right to decide whether they want to have a child and how they want to parent so that they can raise their child in a healthy way. San Antonio is very economically segregated and there is a lot of economic disparity. It is hard to take a day off here if you have a job, much less a week to travel out of state for an abortion. So, abortion funds are critical in helping people and we are fortunate to have some great ones in Texas. I worry about undocumented folks in rural areas of Texas. This is a huge state, and we need to increase capacity so that we can do more outreach and help people, especially those in rural areas.[373]

Without abortion protections at the federal level, and as multiple states implement further abortion bans and restrictions, some local municipalities are seeking ways to protect access to abortion care, particularly for more marginalized communities:

[373] Amnesty International interview with Laura Molinar, Co-Founder and Co-Director, Sueños Sin Fronteras, 12 October 2023.

COUNCILWOMAN TERI CASTILLO, SAN ANTONIO, TEXAS

Following the Dobbs decision … we knew we needed to create a legislative way to advocate for funds to help with reproductive healthcare. We worked with community members and advocates. They are really the ones who led it and drafted the Reproductive Justice Fund Budget Request. Through the approval of this request, we were able to get $500,000 approved. We are now in the process of seeking requests for proposal applications for the funds. …

The money could not fund in-state abortions, for example, but we can fund support for transportation and other costs associated with people having to travel out of state. …. Texas leads in states with the most women carrying pregnancies because of rape. This state abortion ban is disproportionately impacting Latina women.[1]

6.5 IMPACT ON HISPANIC AND LATINA PERSONS[374]

Close to 50% of Hispanic and Latina women in the US aged 15 to 49 live in states where abortion is banned, about to be banned, or severely restricted.[375] Many cannot afford to access medication abortion pills or travel out of state to have an abortion. Recent research showed more than 3 million Latinas living in states with existing or likely abortion bans are economically insecure.[376] The US Hispanic population living in poverty is 18%.[377] Being denied an abortion and forced to give birth is likely to push families who are already economically insecure deeper into poverty.

For many Latinas and Hispanic people living in restricted states, English is not their first language. Without proper language access resources, they lack information on the state policy and its impacts, or how, where and when they can find a provider who can give them abortion care.

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[374] Amnesty International strives to use terminology that respects the wishes of the peoples concerned. The terms "Hispanic" and "Latino" are often used interchangeably in the United States but do have different meanings. "Hispanic" refers to populations that speak Spanish or are descended from Spanish-speaking populations. The US government uses "Hispanic" In its census data. "Latino" refers to people from Latin America and their descendants. "Latina" is the feminized form of "Latino". We note that Latina/Latino are gendered words that can be exclusive of gender diverse people, and we use Latina here in specific reference to Latina women.

[375] KFF. *What are the Implications of the Dobbs Ruling for Racial Disparities*?, 24 April 2024, https://www.kff.org/womens-health-policy/issue-brief/what-are-the-implications-of-the-dobbs-ruling-for-racial-disparities/; see also National Partnership for Women and Families, *State Abortion Bans Threaten 6.7 Million Latinas*, 2023 October, https://nationalpartnership.org/report/state-abortion-bans-threaten-latinas/. (It should be noted that in this analysis the authors used ages 15-49 to align with the Guttmacher Institute and WHO).

[376] National Partnership for Women and Families, *State Abortion Bans Threaten 6.7 Million Latinas*, 2023 October, https://nationalpartnership.org/report/state-abortion-bans-threaten-latinas/ (The research defined "economically insecure" as families living on incomes of less than 200 percent of the federal poverty line (the poverty line is the estimated income level needed to afford basic needs like food or shelter.))

[377] Pew Research Center, *U.S. Hispanic Population Living in Poverty 2021*, 16 August 2023, https://www.pewresearch.org/chart/us-hispanics-poverty/

YANETH FLORES, AVOW, TEXAS

We don't have access to abortion here, but we also don't have access to sex education and information about HPV and other STIs. We are living in a vacuum. .... There is no basic repro clinic or even healthcare. Most people are living in healthcare deserts – forget about repro care. It's important for us to offer support, education, and to create spaces where people can share stories, so we can advocate for change. People are going to do what they are going to do. An abortion ban doesn't mean people aren't getting pregnant.

Folks are traveling south to Mexico and accessing and distributing supplies to their networks here so that people have the option to self-manage an abortion. With the criminalization and bounty-hunter laws in this state, people are really scared. We are talking offline or using Signal or finding ways to communicate and share resources that are safe.[378]

ANONYMOUS, TEXAS

An east Texas Latina mother of four learned she was pregnant in 2022. She was devastated when, at 20 weeks she learned that the fetus had a fatal condition where they are born without part of their brain. The woman could not afford to travel out of state for an abortion and Texas law required that she carry the pregnancy to term. The woman "watched her gasp out her first and final breaths…[she] went from pink to red to purple, from being warm to cold."[379] **The baby died four hours after birth. "When I met my daughter, I just knew I had to do whatever I could do to make sure that no other babies had to go through that ever, ever again — or any mothers at that because it was, it was hard. Very, very hard."**[380] **"I was so sorry that I couldn't help her or release her going to heaven sooner rather than later. I felt so bad. She had no mercy. There was no mercy there for her, and I couldn't do anything."**[381]

ANONYMOUS, TEXAS

A Latina woman pregnant with twins learned at 12 weeks that one of the twins had been diagnosed with a fatal condition in utero that could threaten the other twin's

[378] Amnesty International interview with Yaneth Flores, AVOW Texas, Policy Director, 12 October 2023.

[379] Texas Tribune, "Tearfully Testifying Against Texas Abortion Ban, Three Women Describe Medical Care Delayed", 19 June 2023, https://www.texastribune.org/2023/07/19/texas-women-testify-abortion-ban/

[380] Axios Latino, "Abortion rights movement needs more Latina voices, advocates say", 6 February, 2024, https://www.axios.com/2024/02/06/abortion-ban-restrictions-texas-hispanic-latinas

[381] Texas Tribune, "Tearfully Testifying Against Texas Abortion Ban, Three Women Describe Medical Care Delayed", 19 June 2023, https://www.texastribune.org/2023/07/19/texas-women-testify-abortion-ban/

life. The woman was forced to travel out of state to save the viable fetus. "These bans are just going to make it that much more complicated and taboo and harder to access proper medical care. I wanted to get it out there to hopefully at least, if nothing gets changed politically, to help spread awareness.[382] This was the most traumatizing experience of my life and one that was made so much worse, unnecessarily, because of these illogical and dangerous laws."[383]

6.6 IMPACT ON LGBTQI+ PEOPLE

While advocacy organizations report that the impact of abortion restrictions post *Dobbs* will have a significant impact on already marginalized people within the LGBTQI+ community, research on abortion and pregnancy among LGBTQI+ people is limited for a variety of reasons.[384] According to the Human Rights Campaign, LGBTQI+ individuals can be impacted by abortion bans and restrictions in a variety of ways: they are more likely to report unwanted or mistimed pregnancies, face negative/discriminatory treatment by healthcare providers and have higher rates of emergency contraception use among other factors.[385]

"If I had had to carry a child, my spirit would have been broken. And I would have considered killing myself. And that was always one of my fears as a young person,"
– Anonymous, Trans People of Color Coalition[386]

Transgender individuals who can become pregnant are a marginalized group disproportionately impacted by abortion bans nationwide. Transgender men, nonbinary and gender-nonconforming people tend to face discriminatory treatment when seeking and accessing healthcare. The lack of statutory protections in states across the US will only further impede these communities' options and access to healthcare when seeking bodily autonomy, particularly in the South, where the most stringent bans exist and where the highest concentration of transgender people reside.[387]

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[382] Axios Latino, "Abortion rights movement needs more Latina voices, advocates say", 6 February, 2024, https://www.axios.com/2024/02/06/abortion-ban-restrictions-texas-hispanic-latinas

[383] Texas Public Radio, "To Protect Her Twin Baby, Texas Woman Was Forced to Seek Abortion Out of State", 2 November 2022, https://www.tpr.org/bioscience-medicine/2022-11-02/to-protect-her-twin-baby-texas-woman-was-forced-to-seek-abortion-care-out-of-state

[384] Human Rights Campaign, "LGBTQ+ people and Roe v. Wade", https://hrc-prod-requests.s3-us-west-2.amazonaws.com/FACT-SHEET_-LGBTQ-PEOPLE-ROE-V-WADE.pdf

[385] Human Rights Campaign, "Fact Sheet: Lesbian, Bisexual, Queer Women Who Have Been Pregnant Are More Likely to Need Abortion Services; Demonstrates Impact Roe Reversal Would Have on LGBTQ+ People", 2 June 2022, https://www.hrc.org/press-releases/human-rights-campaign-fact-sheet-lesbian-bisexual-queer-women-who-have-been-pregnant-are-more-likely-to-need-abortion-services-demonstrates-impact-roe-reversal-would-have-on-lgbtq-people

[386] The 19th, "Abuse, Discrimination, Exclusion: Transgender Men Explain Domino Effect of Losing Reproductive Care Post-Roe" 5 July 2022, https://19thnews.org/2022/07/abortion-transgender-men-nonbinary-reproductive-rights/

[387] UCLA School of Law Williams Institute, *How Many Adults and Youth Identify as Transgender in the United States*?, June 2022, https://williamsinstitute.law.ucla.edu/publications/trans-adults-united-states/

Transgender individuals are more like to be low-income,[388] without resources to travel out of state to seek abortion care, and/or identify a provider who is experienced in transgender care. Instances of violence,[389] rape and sexual assault against transgender people are at high rates [390] and the fear for a transgender person of being forced to carry an unwanted pregnancy is very real.[391]

The *Dobbs* decision did not impact only the right of transgender people to abortion care, but also other medical services. Clinics such as Planned Parenthood offer gender-affirming care that can be challenging to find outside of urban areas. Finding healthcare providers who are knowledgeable, culturally sensitive and trained to meet their needs is a critical component for marginalized communities. [392]

ANONYMOUS, TEXAS

A transgender individual from Texas, spoke to news outlets about their concern regarding Texas's abortion ban post-Dobbs. The individual has carried two pregnancies to term and now has two children, but because of their experience knows first-hand some of the issues that could arise if a transgender person chose to seek abortion care. In the first pregnancy, the person was unaware that they were pregnant for more than five months. Assuming the individual would not get pregnant due to long-term hormone therapy, their physician did not conduct a pregnancy test. The individual received a positive test for their second pregnancy, at seven weeks. The person had not sought an abortion and had both children before Texas's law went into effect, but their experience demonstrates how easily a transgender person could face issues getting access to sexual and reproductive healthcare and/or abortion care post-Dobbs, particularly in restrictive states.[393]

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[388] National Center for Transgender Equality, *The Report of the 2015 U.S. Transgender Survey*, 2016, https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf; https://lgbtq-economics.org/wp-content/uploads/2020/03/LGBTQ-Wealth-Gap-One-Page-Infographic.pdf

[389] The 19th, "2021 is Now the Deadliest Year on Record for Transgender People", 20 November 2021, https://19thnews.org/2021/11/2021-deadliest-year-record-transgender-people/

[390] UCLA School of Law Williams Institute, *Transgender People Over Four Times More Likely Than Cisgender People to be Victims of Violent Crime*, 2021 March, https://williamsinstitute.law.ucla.edu/press/ncvs-trans-press-release/; National Center for Transgender Equality, "The Report of the 2015 U.S. Transgender Survey", 2016, https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf; https://lgbtq-economics.org/wp-content/uploads/2020/03/LGBTQ-Wealth-Gap-One-Page-Infographic.pdf (Nonbinary people and transgender men report being sexually assaulted at a higher rate than other LGBTQ+ people. Fifty-one percent of transgender men and 55 percent of nonbinary people out of over 27,000 respondents said they had been assaulted in their lifetime.)

[391] VeryWellHealth, "How Abortion Bans Impact the Transgender Community", 8 July 2022, https://www.verywellhealth.com/abortion-bans-impact-trans-community-5525421

[392] The 19th, "Abuse, Discrimination, Exclusion: Transgender Men Explain Domino Effect of Losing Reproductive Care Post-Roe" 5 July 2022, https://19thnews.org/2022/07/abortion-transgender-men-nonbinary-reproductive-rights/

[393] ABC News, "The Push for Inclusion in the Abortion Rights Movement", 13 May 2022, https://abcnews.go.com/US/push-inclusion-abortion-rights-movement/story?id=84542537

MEGAN PETERSON, MINNESOTA

The work we do on gender justice touches all of these issues, access to reproductive healthcare, LGBTQ issues, abortion issues. At its core, the political narrative from our opposition is the same across these issues. They're repurposing the playbook they used to ban abortion to now target transgender people and their healthcare. They promote a false "regret" narrative. They soft launch their healthcare bans by targeting young people before they ban it for everyone else and claim it's to "protect children" and justified by "parents' rights." They target gender affirming healthcare providers to push them out of mainstream care like they did with abortion. They empower people to harass individuals outside of clinics and parade around large-scale graphic photos intended to shock and shame. At its root, it's the same issue: who gets to decide what healthcare you have access to and what kind of life do you get to lead? This is the next fight for democracy. Once the government can control what you can do with your body, they can control everything.[394]

6.7 IMPACT ON PEOPLE WITH DISABILITIES

People with disabilities have a right to equal protection under the law, which includes the ability to exercise legal capacity and make autonomous decisions about their sexuality and reproduction.[395] However, increasing bans and restrictions on abortion are having a disparate impact on persons with disabilities and denying these rights.

Over half of all women with disabilities in the US – over three million women of reproductive age – live in states where abortion is banned, about to be banned or severely restricted.[396] The South, where most states ban abortion, has the largest populations of individuals with disabilities in the US.[397]

The impact of restrictive laws and policies around abortion only compound existing inequalities faced by persons with disabilities, such as lack of access to acceptable healthcare, including sexual and reproductive healthcare, lack of providers trained to meet persons with disabilities' individual needs, and higher rates of sexual violence.[398] Additionally, women with disabilities are at 11 times greater risk of maternal mortality, as well as at increased risk of maternal morbidity.[399] As such, bans and restrictions on

[394] Amnesty International interview with Megan Peterson, Gender Justice, 20 May 2024.
[395] CRPD, Article 12, CRPD Committee, General Comment 1.
[396] National Partnership for Women and Families, *State Abortion Bans Harm More Than Three Million Disabled Women*, https://nationalpartnership.org/wp-content/uploads/state-abortion-bans-harm-disabled-women.pdf
[397] U.S. Census Bureau, *The South Had Highest Disability Rate Among Regions in 2021*, U.S. Census Bureau, 26 June 2023, https://www.census.gov/library/stories/2023/06/disability-rates-higher-in-rural-areas-than-urban-areas.html; see also Ford Foundation*, A New Disabled South*, 3 April 2023, https://www.fordfoundation.org/news-and-stories/stories/a-new-disabled-south/
[398] See, e.g., J Wu, et. al., *Looking Back While Moving Forward: A Justice-based, Intersectional Approach to Research on Contraception and Disability*, May 2019, *Contraception*, 99(5), https://pubmed.ncbi.nlm.nih.gov/30763580/
[399] JL Gleason, et al*., Risk of Adverse Maternal Outcomes in Pregnant Women with Disabilities*, 1 December 2021, JAMA Netw Open, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8674748/

abortion only increase the risk of pregnancy and birth-related death[400] and health impacts for persons with disabilities.[401]

> **"Disabled people – especially multi-marginalized disabled women – have long-faced financial barriers to accessing abortion. *Dobbs* has only intensified these hurdles for the majority of disabled women who are economically insecure living in states that have banned or are likely to ban abortion."[402]**

Diminishing access to abortion care is also having economic impacts on persons with disabilities. As accessing care now requires additional financial resources, persons with disabilities who already face economic insecurity may be left without recourse.[403] Economically insecure individuals with disabilities, for example, may not be able to afford out-of-state lodging, transportation and childcare.[404] Those with physical and/or mobility-related disabilities may further lack access to accessible transportation or the ability to travel with a support person for their safety and security.

> **"Abortion will still be available for those who can get on a plane, get in a car, go to another state, who have the resources… But for people with disabilities and other marginalized communities, abortion has now just become even less accessible."[405]**

6.8 IMPACT ON PEOPLE LIVING IN RURAL AREAS

Individuals seeking abortion care who live in rural areas may be particularly disadvantaged by scarcity of healthcare provision, especially in remote locations – where people sometimes have to rely on traveling care providers – as well as lack of transportation services to areas of greater provision. Rural women experience poorer health outcomes and have less access to care than urban women; less than half of rural women live within a 30-minute drive of the nearest hospital with pre-natal services.[406]

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[400]National Partnership for Women and Families, *State Abortion Bans Harm More Than Three Million Disabled Women*, 2024, https://nationalpartnership.org/wp-content/uploads/state-abortion-bans-harm-disabled-women.pdf

[401] National Partnership for Women and Families, *State Abortion Bans Harm More Than Three Million Disabled Women,* 2024, https://nationalpartnership.org/wp-content/uploads/state-abortion-bans-harm-disabled-women.pdf

[402] National Partnership for Women and Families, *State Abortion Bans Harm More Than Three Million Disabled Women* - Issue Brief, 2024, https://nationalpartnership.org/wp-content/uploads/state-abortion-bans-harm-disabled-women.pdf

[403] See, e.g., National Partnership for Women and Families, *Access, Autonomy, and Dignity: Contraception for People with Disabilities*, 2021, https://nationalpartnership.org/wp-content/uploads/2023/02/repro-disability-contraception.pdf

[404] See, e.g., National Partnership for Women and Families, "Access, autonomy, and dignity: contraception for people with disabilities", 2021, https://nationalpartnership.org/wp-content/uploads/2023/02/repro-disability-contraception.pdf

[405] Robyn Powell, Associate law professor at the University of Oklahoma College of Law, as quoted in Texas Tribune, "Disabled Texans Face More Barriers to Accessing Abortion" 20 February 2024, https://www.texastribune.org/2024/02/20/texas-abortion-disabled/

[406] American College of Obstetricians and Gynecologists, *Health Disparities in Rural Women*, February 2014, "https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2014/02/health-disparities-in-rural-women

The challenge for rural people to access healthcare, including abortion care, has been exacerbated by abortion bans that drive physicians out of already underserved areas where they can no longer provide abortion care or where provision of care to patients could result in loss of their medical license or criminal sanctions.[407] (See also Chapter 5).

States with abortion bans experience a knock-on adverse impact in their ability to keep healthcare centers and medical school programs running due to the departure of clinicians and inability to attract new medics and students.[408]

> **"There has been intimidation of medical students by state government dictating curriculum. The word abortion has been taken out of the classroom in Texas, Tennessee, Mississippi, and Oklahoma. Students don't want to go to these states for residency and as a result, these states are losing out on a certain skills-set. This year [2023] was the first residency match post-*Dobbs*. There was a 10% decrease of matches into abortion ban states. Students don't want to go there. The problem is, if states like Idaho, for example, don't have OBGYN doctors – then it becomes unsafe to be pregnant in these states. People are being intimidated and bullied. There is a real fear of speaking openly. There are horror stories in residencies in banned states, but students are afraid to speak out. [And it should be noted that] [T]wo historically Black medical schools are in banned states- which will have an impact."**
> *– Pamela Merritt, Medical Students for Choice[409] (8 December 2023)*

These nationwide difficulties are particularly hard-hitting in already under-resourced rural areas where maternity deserts are becoming a reality.[410] As more doctors leave and fewer medical students and residents choose to practice in states with abortion bans, those in rural areas are increasingly likely to live even further from abortion care and other healthcare.

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[407] KFF. *What are the Implications of the Dobbs Ruling for Racial Disparities*?, 24 April 2024, https://www.kff.org/womens-health-policy/issue-brief/what-are-the-implications-of-the-dobbs-ruling-for-racial-disparities/

[408] Association of American Medical Colleges, *States With Abortion Bans See Continued Decrease in U.S. MD Senior Residency Applicants*, 9 May 2024, https://www.aamcresearchinstitute.org/our-work/data-snapshot/post-dobbs-2024

[409] Amnesty International interview with Pamela Merritt, Executive Director, Medical Students for Choice, 8 December 2023.

[410] KFF, *What are the Implications of the Dobbs Ruling for Racial Disparities?,* 24 April 2024, https://www.kff.org/womens-health-policy/issue-brief/what-are-the-implications-of-the-dobbs-ruling-for-racial-disparities/

7. CRISIS PREGNANCY CENTERS: FAKE CLINICS FOCUSED ON ENDING ABORTION

ANONYMOUS, MASSACHUSETTS

In October 2022, "Jane Doe" was told by staff at Clearway Clinic, a crisis pregnancy center in Worcester, Massachusetts, that her pregnancy was viable and in utero. She was provided paperwork confirming that she was seen by a medical doctor. A month later, Jane had to be rushed to the emergency room as her pregnancy, which was ectopic and non-viable, had ruptured, causing massive internal bleeding and necessitating emergency surgery. She filed a lawsuit in 2023, and her lawyer summarized the impact on Jane: "Our client was forced to undergo a traumatic, dangerous, and completely avoidable emergency surgery to save her life because she was deceived into going to an anti-abortion clinic instead of an appropriate healthcare provider."[411]

Crisis Pregnancy Centers (CPCs), Also known as "Anti-Abortion Centers", "Pregnancy Resource Centers" and "Pregnancy Care Centers" are facilities that seek to prevent people from accessing abortion care and contraception. CPCs often use deceptive and coercive tactics to appeal to pregnant people in need of abortion care – offering (or pretending to offer) free pregnancy tests, ultrasounds, and newborn essentials. CPCs without licensed medical staff often misleadingly present themselves as legitimate medical facilities, yet they are exempt from the regulatory oversight that applies to

[411] Kiernan Dunlop, "Worcester Woman Suing Clearway Clinic Claims Missed Diagnosis Put Her Life At Risk," MassLive, 23 June 2023, Https://Www.Masslive.Com/Worcester/2023/06/Worcester-Woman-Suing-Clearway-Clinic-Claims-Missed-Diagnosis-Put-Her-Life-At-Risk.Html

healthcare facilities, leaving them free to provide false information about abortion, contraception, and pregnancy to pregnant people.

Despite these misleading and dangerous practices, individual states and the federal government not only fail to adequately regulate CPCs, but provide funding to CPCs through grants, taxpayer funds, tax incentives and credits, which contribute to their proliferation. CPCs exist in all 50 states and in the District of Columbia.

In 2020, CPCs in the US outnumbered abortion clinics by an average of 3 to 1;[412] In states that fund CPCs, the disparities are even higher. [413] In 2021 in Pennsylvania, for example, the ratio of CPCs to abortion clinics was 9 to 1; in Minnesota, it was 11 to 1.[414] Since *Dobbs* and the forced closure of clinics across states with abortion bans, the CPC to abortion clinic ratios are increasing.[415]

CRISIS PREGNANCY CENTER DISTRIBUTION IN THE UNITED STATES

↑*Map courtesy of Expose Fake Clinics Website - see exposefakeclinics.com*

[412] Andrea Swartzendruber And Danielle N. Lambert, *A Web-Based Geolocated Directory Of Crisis Pregnancy Centers (Cpcs) In The United States: Description Of Cpc Map Methods And Design Features And Analysis Baseline Data*, JMIR Public Health And Surveillance (March 2020), Https://Www.Ncbi.Nlm.Nih.Gov/Pmc/Articles/Pmc7148549/

[413] Andrea Swartzendruber And Danielle N. Lambert, *A Web-Based Geolocated Directory Of Crisis Pregnancy Centers (Cpcs) In The United States: Description Of Cpc Map Methods And Design Features And Analysis Baseline Data*, JMIR Public Health And Surveillance (March 2020), Https://Www.Ncbi.Nlm.Nih.Gov/Pmc/Articles/Pmc7148549/

[414] The Alliance, State Advocates For Women's Rights & Gender Equality, "Designed To Deceive: A Study Of The Crisis Pregnancy Center Industry In Nine States." 2021, Https://Alliancestateadvocates.Org/Wp-Content/Uploads/Sites/107/Alliance_Cpc_Report_Final11-4-1.Pdf

[415]Carter Sherman, "States to award anti-abortion centers roughly $250m in post-Roe surge," The Guardian, 28 December 2023, https://www.theguardian.com/world/2023/dec/28/anti-abortion-pregnancy-crisis-centers-taxpayer-money-roe; Ali Rogan and Andrew Corkery, "Why Support for Crisis Pregnancy Centers is Surging After the End of Roe v. Wade," PBS, 2 March 2024, https://www.pbs.org/newshour/show/why-support-for-crisis-pregnancy-centers-is-surging-after-the-end-of-roe-v-wade

The anti-abortion agenda of CPCs is not accidental: many CPCs are affiliated with large regional and international anti-abortion organizations, which leverage CPCs to systematically proliferate an anti-abortion agenda.[416] And since *Dobbs*, the reach and public funding of CPCs has expanded.[417]

7.1 INACCURATE HEALTHCARE INFORMATION AND LACK OF QUALITY SERVICES

> **"I literally just googled abortion clinics in Dallas and made an appointment with a CPC. Online it looked totally legitimate, and I needed free resources. Luckily, I already knew some information about abortion, and I knew that's what I wanted to do: I knew I couldn't raise a child at that time. The CPC asked me to fill out some paperwork, but now I know they're not HIPAA compliant, so I have no idea what they did with my information. They separated me and my partner and tried to convince us not to have an abortion. They were telling me I'd get breast cancer. The person was dressed in scrubs, but were they even a medical professional? They did an ultrasound, and I heard a "heartbeat." … I know it was physically impossible for a fetus to have a heartbeat [due to its early gestation] at the time, but they played a recording of a heartbeat for me to hear. We felt imprisoned in those rooms. Finally, I knew it was a lie and they weren't going to help us, so we tried to leave—a male counselor followed us out in the parking lot."**
>
> *– Interview with Amnesty International, Jessica Torres Macias, TEA Fund, Texas (24 October 2023)*

CPCs operate in a regulatory grey zone where they claim to provide healthcare and health services but abide by no health regulatory standards. CPCs are not medical facilities and are often led by untrained, unlicensed staff and volunteers, who spread

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[416] Privacy International, "How Anti-Abortion Activism Is Exploiting Data", 22 July 2019, Https://Privacyinternational.Org/Long-Read/3096/How-Anti-Abortion-Activism-Exploiting-Data

[417] "New Core Brief Presents Evidence On Crisis Pregnancy Centers' Operations And Impact In Wisconsin And Beyond," Collaborative For Reproductive Equity, University Of Wisconsin-Madison Department Of Obstetrics And Gynecology, 1 February 2024; Https://Core.Wisc.Edu/2024/02/01/New-Core-Brief-Presents-Evidence-On-Crisis-Pregnancy-Centers-Operations-And-Impact-In-Wisconsin-And-Beyond/; Mark Joseph Stern, "The Decisions We Forget, The Decisions We Forget: Supreme Court Rulings Tend To Have A Short Shelf Life In The Public Memory. But The Way Cases Collide Can Make A Catastrophic Difference," Slate, 22 May 2023, Https://Slate.Com/News-And-Politics/2023/05/Crisis-Pregnancy-Centers-Influence-Post-Dobbs-Abortion-Supreme-Court.Html; National Committee For Responsive Philanthropy, "New Research: Crisis Pregnancy Centers Hold A 5:1 Funding Advantage Over Legitimate Abortion Clinics And Funds Nationwide," 22 June 2022; Https://Ncrp.Org/2022/07/New-Research-Crisis-Pregnancy-Centers-Hold-A-51-Funding-Advantage-Over-Legitimate-Abortion-Clinics-And-Funds-Nationwide/; Kitana Ananda, "Funding Reproductive Justice And The Future Of Abortion Access," Nonprofit Quarterly, 18 August 2022; Https://Nonprofitquarterly.Org/Funding-Reproductive-Justice-And-The-Future-Of-Abortion-Access/; Rebekah Sager, "Crisis Pregnancy Centers Netted $1.4 Billion In Revenue In 2022, Memo Shows," The Pennsylvania Independent, 20 February 2024, Https://Pennsylvaniaindependent.Com/Repro-Rights/Crisis-Pregnancy-Centers-Netted-1-4-Billion-In-Revenue-In-2022-Memo-Shows-2/

false and inaccurate sexual and reproductive health information.[418] Many CPCs resemble medical clinics and have "exam rooms" with staff and volunteers dressed in scrubs or white coats with other medical accessories to mimic medical professionals. Amnesty International visited two CPCs and interviewed staff at one. CPC volunteers told Amnesty International that their clinic "offered ultrasounds that are a little bit more diagnostic, a little bit more advanced" but refused to explain what that meant or confirm that the clinic was a medical clinic.[419] Many are purposely located next to or around abortion centers and use similar names and logos intentionally seeking to confuse potential patients.[420] CPC volunteers are often stationed directly outside of abortion clinic parking lots, and provide misleading information to patients. They also strategically place advertisements aimed at pregnant people on social media,[421] on search engine results for abortion-related terms,[422] and on billboards and buses near abortion clinics, in an effort to confuse patients seeking abortion care.[423] Amnesty International heard from the director of a CPC that the clinic uses geofencing around local schools, colleges and abortion clinics so that the CPC's website will come up if someone searches online for terms like abortion, pregnancy and adoption.[424]

Most CPCs do not offer the medical care that they insinuate that they do. A 2021 report of 607 CPCs in 9 states found that medical services comprised the smallest percentage of services offered at CPCs, where only 16.3% of CPCs had a physician on staff, and only 25.9% had a registered nurse.[425] In the state of California, for instance, 90% of CPCs offer no prenatal care at all.[426] The same study found that only one of the 607 CPCs provided contraception care.

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[418] Amy Bryant And Jonas Swartz, *Why Crisis Pregnancy Centers Are Legal But Unethical*, March 2018, American Medical Association Journal Of Ethics, Volume 20, No. 3, Pages 269-277, Https://Journalofethics.Ama-Assn.Org/Article/Why-Crisis-Pregnancy-Centers-Are-Legal-Unethical/2018-03

[419] Amnesty International Interview With CPC Volunteers, Illinois, 5 December 2023.

[420] Planned Parenthood, *What Reproductive Rights Advocates Need To Know About Anti-Abortion Crisis Pregnancy Centers*, Https://Www.Plannedparenthoodaction.Org/Planned-Parenthood-Advocacy-Fund-Massachusetts-Inc/Issues/What-Reproductive-Rights-Advocates-Need-To-Know-About-Anti-Abort#:~:Text=Many%20cpcs%20are%20also%20deliberately,Centers%20that%20provide%20abortion%20care

[421] Amanda Kloer, "Crisis Pregnancy Centers Are Running Ads On TikTok, Snapchat, And Instagram", 14 September 2022, Teen Vogue, Https://Www.Teenvogue.Com/Story/Crisis-Pregnancy-Centers-Social-Media-Ads

[422] Laurel Wamsley, "Google Shows You Ads For Anti-Abortion Clinics When You Search For Clinics Near You", 26 June 2023, Capradio, Https://Www.Capradio.Org/Articles/2023/06/26/Google-Shows-You-Ads-For-Anti-Abortion-Centers-When-You-Search-For-Clinics-Near-You/

[423] NARAL Pro-Choice America, *Crisis Pregnancy Centers Lie: The Insidious Threat To Reproductive Freedom*, Https://Reproductivefreedomforall.Org/Wp-Content/Uploads/2017/04/Cpc-Report-2015.Pdf

[424] Amnesty International Interview with CPC Staff, Missouri, 4 December 2023.

[425] The Alliance, State Advocates For Women's Rights & Gender Equality, "Designed To Deceive: A Study Of The Crisis Pregnancy Center Industry In Nine States." 2021, Https://Alliancestateadvocates.Org/Wp-Content/Uploads/Sites/107/Alliance_Cpc_Report_Final11-4-1.Pdf

[426] The Alliance, State Advocates For Women's Rights & Gender Equality, "Designed To Deceive: A Study Of The Crisis Pregnancy Center Industry In Nine States." 2021, Https://Alliancestateadvocates.Org/Wp-Content/Uploads/Sites/107/Alliance_Cpc_Report_Final11-4-1.Pdf Pg. 47

"They are really good at hiding the fact that they don't provide actual medical care. You walk in there thinking you'll see a doctor or a nurse, and you end up seeing non-medical personnel. It's insane."

– Interview with Amnesty International, Shellie Hayes-McMahon, Planned Parenthood Texas Votes (October 2023)

The majority of CPCs actively promote misinformation about abortion, birth control, and other reproductive health issues. A 2006 US Congressional investigation into Crisis Pregnancy Centers found that 87% of CPCs contacted provided false information on the effects of abortion that was "grossly distorted and inaccurate," linking abortion to an increased risk of breast cancer, infertility, and "post-abortion stress disorder"[427] (a syndrome that does not exist[428]). The nine states study of 2021 found that misinformation given included issues beyond abortion, as CPCs "promoted patently false and/or biased medical claims about pregnancy, abortion, contraception, and reproductive healthcare providers."[429]

CPCs use literature, like this pictured, that resembles medical literature, but that instead often provides false and inaccurate information meant to dissuade someone from obtaining an abortion. (Amnesty International)

"I have mapped out the majority of the CPCs throughout the Rio Grande Valley, and 200 miles north of us. In fact, we just had a caller last week who was very

[427] U.S. House Committee On Government Reform, Special Investigations Division, "False And Misleading Health Information Provided By Federally Funded Pregnancy Resource Centers." July 2006, Https://Motherjones.Com/Files/Waxman2.Pdf

[428] Zara Abrams, *The Facts About Abortion And Mental Health*, 21 April 2023, American Psychological Association, Https://Www.Apa.Org/Monitor/2022/09/News-Facts-Abortion-Mental-Health

[429] The Alliance, State Advocates For Women's Rights & Gender Equality, "Designed To Deceive: A Study Of The Crisis Pregnancy Center Industry In Nine States." 2021, Https://Alliancestateadvocates.Org/Wp-Content/Uploads/Sites/107/Alliance_Cpc_Report_Final11-4-1.Pdf

confused about what her reproductive choices were after an encounter with an anti-abortion center. She went to McAllen Pregnancy Center [a CPC] and told them that she wanted an abortion. They proceeded to blatantly lie to her and stated, "If you get an abortion, you'll start to bleed and have to go to the hospital and a nurse will report you and you will go to jail." I explained to her that this is not the truth, and that CPCs are fake, anti-abortion centers whose main goal is to persuade people out of making their own reproductive decisions. She felt so vulnerable because she thought she was going to an actual abortion clinic. I assured her that they are designed to be confusing and that none of this was her fault. She never called back, but I hope she was able to receive the care she so rightfully deserved."

– Interview with Amnesty International, Cathy Torres, Frontera Fund, Texas Votes (October 2023)

One of the areas of false information spread by CPCs concerns "abortion pill reversal" (APR); in other words, the idea that an abortion can be "reversed." APR is a high dosage of progesterone that CPCs promote after someone has taken Mifepristone, the first of the two medications needed to terminate a pregnancy. APR is not approved by the FDA, and medical associations have debunked the myth of medication abortion "reversal."[430] Promoting the use of APR can also be dangerous: a 2020 study on the effects of countering Mifepristone with a high dose of progesterone was cut short because three out of 12 participants were taken to the emergency room with severe bleeding.[431] Despite this, the 2021 study of CPCs in nine states found that, "[m]ore than one third of CPCs promoted APR; in some states more than half promoted APR."[432]

Many medical organizations have raised strong concerns about and denunciations of CPCs. The American College of Obstetricians and Gynecologists has pointed to the deception, delay tactics and disinformation employed by CPCs, which endangers patients' autonomy and their access to ethical care.[433] The National Institute for Health has called for greater public information on the ulterior motives and intentionally fraudulent practices of CPCs,[434] and the American Medical Association has raised

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[430] American College of Obstetricians and Gynecologists, *Facts Are Important: Medication Abortion "Reversal" Is Not Supported By Science.* Accessed 4 April 2024, Https://Www.Acog.Org/Advocacy/Facts-Are-Important/Medication-Abortion-Reversal-Is-Not-Supported-By-Science

[431] Mitchell D. Creinin, Et Al*., Mifepristone Antagonization with Progesterone to Prevent Medical Abortion: A Randomized Controlled Trial,* Obstetrics & Gynecology 135(1):P 158-165, January 2020, Doi: 10.1097/Aog.0000000000003620, Https://Journals.Lww.Com/Greenjournal/Abstract/2020/01000/Mifepristone_Antagonization_With_Progesterone_To.21.Aspx

[432] The Alliance, State Advocates For Women's Rights & Gender Equality, "Designed To Deceive: A Study Of The Crisis Pregnancy Center Industry In Nine States." 2021, Https://Alliancestateadvocates.Org/Wp-Content/Uploads/Sites/107/Alliance_Cpc_Report_Final11-4-1.Pdf

[433] The American College of Obstetricians and Gynecologists, *Crisis Pregnancy Centers*, Https://Www.Acog.Org/Advocacy/Abortion-Is-Essential/Trending-Issues/Issue-Brief-Crisis-Pregnancy-Centers

[434] Carly Polcyn et al, *Truth and Transparency in Crisis Pregnancy Centers*, July 2020, National Library of Medicine, Https://Www.Ncbi.Nlm.Nih.Gov/Pmc/Articles/Pmc7784822/

concerns about the harm that CPC practices could cause to patients and public health.[435]

7.2 DELAYS TO ABORTION CARE

CPCs have been shown to delay access to medically legitimate prenatal and abortion care, which negatively impacts maternal health.[436] CPCs often use misinformation about abortion and other tactics to intentionally create delays to prevent a pregnant person from seeking abortion care in states with gestational restrictions to abortion.[437] Additionally, CPCs often deliberately overestimate a patient's gestational age, indicating that they are beyond the limit allowed for an abortion.[438]

> **"She was greeted by two people in lab coats, appearing as medical professionals. They told her she'd get breast cancer, that an abortion would make her infertile. She had to watch a video about how horrible abortion is. She told me that she was panicking, but she really needed the ultrasound, so she had to stay. The CPC called her for six months afterwards. We still don't know if they gave her the right date for the pregnancy."**
> *– Interview with Amnesty International, Name Withheld (October 2023)*

[435] Andis Robeznieks, *No Easy Calls In High Court Case On Crisis Pregnancy Centers*, 11 July 2018, American Medical Association, Https://Www.Ama-Assn.Org/Delivering-Care/Patient-Support-Advocacy/No-Easy-Calls-High-Court-Case-Crisis-Pregnancy-Centers

[436] Melissa N Montoya et al, *The Problem With Crisis Pregnancy Centers: Reviewing The Literature And Identifying New Directions For Future Research*, 8 June 2022, National Library Of Medicine, Https://Www.Ncbi.Nlm.Nih.Gov/Pmc/Articles/Pmc9189146/

[437]The American College Of Obstetricians And Gynecologists, *Crisis Pregnancy Centers*, Https://Www.Acog.Org/Advocacy/Abortion-Is-Essential/Trending-Issues/Issue-Brief-Crisis-Pregnancy-Centers

[438] The American College Of Obstetricians And Gynecologists, *Crisis Pregnancy Centers*, Https://Www.Acog.Org/Advocacy/Abortion-Is-Essential/Trending-Issues/Issue-Brief-Crisis-Pregnancy-Centers

JENNIFER, OHIO **NAME CHANGED FOR PRIVACY PURPOSES*

Jennifer* wanted to find out how many weeks pregnant she was because Ohio law banned abortions at six weeks. She'd scheduled a scan at a facility that offered "abortion consultations" and free ultrasounds. Jennifer said, "a few things seemed a little off." One counselor gave her prenatal vitamins, and another offered to pray for her. She was told that the ultrasound wasn't clear enough to date the pregnancy and that she'd have to come back a week later. She was told she was six weeks and three days pregnant at her next appointment. A one-week delay was the difference between a legal and illegal abortion in Ohio. Jennifer suspected that the clinic was not an abortion-friendly place and that it was a crisis pregnancy center, which are often religiously affiliated organizations that try to convince women not to have an abortion. She decided she would take abortion pills from Aid Access, a European online service that supplies abortion pills to women in states where abortion is banned. Jennifer paid $105 to order the pills and took them at home.[439]

7.3 LACK OF DATA PROTECTION

It is unclear what happens to the data and information collected by a CPC through appointments with pregnant individuals. Most CPCs are not subject to federal privacy laws such as the Health Insurance Portability and Accountability Act (HIPAA), unless the CPC has a medical professional on staff, and lack the regulatory oversight governing legitimate medical clinics. Yet most CPCs also collect extensive data of people who come through their doors, including the purpose of the visit, demographic data, and outcomes of the visit in terms of abortion decision.[440] This lack of data protection is particularly concerning in states with gestational bans, where data on pregnancy dates could be used to criminalize abortion seekers, or in a state like Texas, where private citizens can be sued for "aiding and abetting" anyone who obtains a banned abortion.

7.4 DIVERSION OF PUBLIC FUNDS TO CPCS

"In my opinion, CPCs are the biggest barrier to abortion access because of how many there are, how much money they get, and how much misinformation they spread."[441]

– Interview with Amnesty International, Maheela Aziz (October 2023)

[439] Caroline Kitchener, "Pregnant And Desperate In Post- Roe America," The Washington Post , 1 December 2022, Https://Www.Washingtonpost.Com/Politics/Interactive/2022/Pregnant-Post-Roe-America-Abortion/.
[440] Privacy International, "How Anti-Abortion Activism Is Exploiting Data", 22 July 2019, Https://Privacyinternational.Org/Long-Read/3096/How-Anti-Abortion-Activism-Exploiting-Data
[441] Amnesty International interview with Maheela Aziz, Texas, 16 October 2023.

One reasons CPCs are so prolific is that they have strong – and growing – funding, which comes from both private and government sources.[442] Philanthropic funding to CPCs is far higher than it is for abortion funds or legitimate clinics. Nationally, CPCs are funded by philanthropic sources at a rate of 5 to 1 over abortion funds or legitimate clinics.[443]

CPCs are also funded through federal and state money.[444] The federal government, regardless of the party in power, allocates funding to CPCs through programs such as the Compassion Capital Fund or the Community-Based Abstinence Education grant program (founded under the George W. Bush administration);[445] the Fatherhood Initiative Program (under the Obama administration),[446] or the Title X grant (under the Trump administration).[447] CPCs also received millions of dollars in coronavirus federal loans.[448] CPCs currently operate with taxpayer funding in 29 states.[449]

Additionally, states are siphoning funds away from safety-net programs for low-income pregnant people and children to CPCs. One of the means of funding CPCs is through the diversion of funds from Temporary Assistance for Needy Families (TANF), a public assistance program meant to benefit low- income families.[450] At least 10 states that are funding CPCs have diverted funding to the CPCs from TANF.[451] TANF funds are supposed to help families financially and can include food, housing, home energy, childcare, and job training. By diverting TANF funds to CPCs, which have no evidence of reducing poverty, the harm of CPCs extends to those who would have benefited from program proven to improve child poverty and health outcomes.[452]

MISSISSIPPI

Post-Dobbs, Gov. Tate Reeves signed a $10 million dollar tax credit for CPCs, while more than half of the state's counties lack birthing centers, hospitals or obstetrics providers.[453]

TEXAS

In 2023, the Texas Legislature allocated $140 million in state funding for CPCs.[454] Texas hosts the largest concentration of CPCs in the US with almost 200 identified facilities.[455]

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[442] National Committee For Responsive Philanthropy, *Crisis Pregnancy Centers-- Data Graphics*, Https://Ncrp.Org/Crisis-Pregnancy-Centers-Data-Graphics/#:~:Text=Show%20us%20the%20money%3a%20your,Through%20alternatives%20to%20abortion%20programs

[454] Swartzendruber A and Lambert D., *Crisis Pregnancy Center Map*. http://www.crisispregnancycentermap.com. Published August, 2021.

[455] Karen Brooks Harper, "Historic $321.3 billion Texas state budget heads to comptroller," Texas Tribune, 27 May 2023, https://www.texastribune.org/2023/05/27/texas-legislature-budget/

PENNSYLVANIA

The first state to formally defund CPCs, after Gov. Josh Shapiro discontinued the state's contract with Real Alternatives (CPC network) in 2023, stating, "For decades, taxpayer dollars have gone to fund Real Alternatives. My Administration will not continue that pattern – we will ensure women in this Commonwealth receive the reproductive healthcare they deserve."[456]

7.5 TARGETING VULNERABLE COMMUNITIES

The same vulnerable communities that depend on programs like TANF, and lose out when funds are diverted to CPCs, are the very communities that CPCs are targeting.

CPCs purposefully direct their services and advertising toward low-income women and girls, people of color and young people – groups that already face systemic barriers to abortion care and other healthcare.[457] CPCs use multiple strategies to reach their

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[445] Thomas B. Edsall, "Grants Flow To Bush Allies On Social Issues.", The Washington Post, 22 March 2006, Https://Www.Washingtonpost.Com/Archive/Politics/2006/03/22/Grants-Flow-To-Bush-Allies-On-Social-Issues-Span-Classbankheadfederal-Programs-Direct-At-Least-157-Millionspan/B20f8baa-9ea6-4829-B61b-3e82eb801b80/

[446] Hayley E. Malcolm, *Pregnancy Centers And The Limits Of Mandated Disclosure*. 2019, Columbia Law Review, https://columbialawreview.org/content/pregnancy-centers-and-the-limits-of-mandated-disclosure/

[447] Andrea Swartzendruber And Danielle N Lambert, *A Web-Based Geolocated Directory Of Crisis Pregnancy Centers (Cpcs) In The United States: Description Of CPC Map Methods And Design Features And Analysis Of Baseline Data*, 27 March 2020, JMIR Public Health And Surveillance, NIH National Library Of Medicine, National Center For Biotechnology Information, Https://Www.Ncbi.Nlm.Nih.Gov/Pmc/Articles/Pmc7148549/#Ref4

[448] Jessica Glenza, "Anti-Abortion Centers Receive At Least $4m From Us Coronavirus Bailout", The Guardian, 3 Aug. 2020, www.theguardian.Com/World/2020/Aug/03/Anti-Abortion-Centers-Paycheck-Protection-Program?Cmp=Share_Btn_Link

[449]National Committee For Responsive Philanthropy, *Crisis Pregnancy Centers-- Data Graphics*, Https://Ncrp.Org/Crisis-Pregnancy-Centers-Data-Graphics/#:~:Text=Show%20us%20the%20money%3a%20your,Through%20alternatives%20to%20abortion%20programs

[450] Carly Polcyn et al, *Truth and Transparency in Crisis Pregnancy Centers*, July 2020, National Library Of Medicine, Https://Www.Ncbi.Nlm.Nih.Gov/Pmc/Articles/Pmc7784822/

[451] National Committee For Responsive Philanthropy, *Crisis Pregnancy Centers-- Data Graphics*,Https://Ncrp.Org/Crisis-Pregnancy-Centers-Data-Graphics/#:~:Text=Show%20us%20the%20money%3a%20your,Through%20alternatives%20to%20abortion%20programs

[452] Carly Polcyn et al, *Truth and Transparency in Crisis Pregnancy Centers*, July 2020, National Library Of Medicine, Https://Www.Ncbi.Nlm.Nih.Gov/Pmc/Articles/Pmc7784822/

[453] Anne Flaherty and Katie Kindelan, "One Year Post-Roe, Crisis Pregnancy Centers Expand Footprint in Mississippi," ABC News, 23 June 2023, https://abcnews.go.com/GMA/News/year-post-roe-crisis-pregnancy-centers-expand-footprint/story?id=100196010

[454] Swartzendruber A and Lambert D., *Crisis Pregnancy Center Map*. http://www.crisispregnancycentermap.com. Published August, 2021.

[455] Karen Brooks Harper, "Historic $321.3 billion Texas state budget heads to comptroller," Texas Tribune, 27 May 2023, https://www.texastribune.org/2023/05/27/texas-legislature-budget/

[456] In Major Win For Women's Health, Shapiro Administration Announces Contract With 'Real Alternatives' to Expire By End of the Year, Pennsylvania Pressroom, 3 August 2023, https://www.media.pa.gov/pages/dhs_details.aspx?newsid=941

[457] American College of Gynecologists and Obstetricians, *Issue Brief: Crisis Pregnancy Centers*, Https://Www.Acog.Org/Advocacy/Abortion-Is-Essential/Trending-Issues/Issue-Brief-Crisis-Pregnancy-Centers

"target" audiences, including ads on buses and billboards placed near high schools, colleges, and low-income neighborhoods.[458] One study found that, beginning in the early 2000s, CPCs sought to establish themselves in areas where they perceived Black women—who have disproportionately higher rates of abortion relative to other racial-ethnic groups—will be drawn to their services."[459] Black women are also more likely than white women to face barriers to medical care and pregnancy resources.[460]

CPCs also use sophisticated online campaigns. They advertise through Google, intentionally directing people looking for keywords such as "abortion" toward CPC sites instead.[461] People click on the ads believing that they are getting information about legitimate health clinics, but instead they are taken to CPC websites that mimic legitimate health clinics.[462] A 2023 study found that Google was more likely to show ads for CPCs to lower-income users in two major US cities, helping CPCs reach underprivileged people in those communities.[463] Taken together with findings from a separate 2024 Amnesty International report that instances of social media companies removing abortion-related content has increased post-Dobbs, there are serious concerns around people's ability to access accurate abortion-related information.[464]

CPCs target low-income populations by advertising free maternity and baby supplies, pregnancy tests and other maternal health services. However, they state in less conspicuous areas of their websites that provision of these goods is contingent on participation in "earn while you learn" classes or counseling, Bible studies, abstinence seminars, video screenings, or other ideological CPC programming."[465]

Amnesty International urges local, state and federal governments to defund, investigate, and regulate Crisis Pregnancy Centers – to fulfill their duty to provide accurate and evidence based sexual and reproductive healthcare information and services.

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[458] NARAL Pro-Choice America, *Crisis Pregnancy Centers Lie: The Insidious Threat To Reproductive Freedom*, Https://Reproductivefreedomforall.Org/Wp-Content/Uploads/2017/04/Cpc-Report-2015.Pdf

[459] Kimberly Kelly And Amanda Gochanour, *Racial Reconciliation Or Spiritual Smokescreens?: Blackwashing The Crisis Pregnancy Center Movement*, Qualitative Sociology 41, No. 3 (July 2018): 424, Https://Doi.Org/10.1007/S11133-018-9392-0.

[460] United States Supreme Court, *FDA v. Alliance for Hippocratic Medicine. Brief of Amici Curiae*, Birth Equity Organizations and Scholars et al, at, https://www.supremecourt.gov/DocketPDF/23/23-235/299211/20240130141320136_Amicus%20Brief%20of%20Legal%20Voice%20the%20National%20Domestic%20Violence%20Hotline%20et%20al.pdf

[461] Center For Countering Digital Hate, *Google Directs Users To Anti-Abortion Fake Clinics* (9 June 2022), Https://Counterhate.Com/Research/Anti-Abortion-Fake-Clinics/.

[462] NARAL Pro-Choice America, *Crisis Pregnancy Centers Lie: The Insidious Threat To Reproductive Freedom*, Https://Reproductivefreedomforall.Org/Wp-Content/Uploads/2017/04/Cpc-Report-2015.Pdf

[463] Tech Transparency Project, "Google Helps 'Fale Abortion Clinics' Target Low-Income Women, 6 February 2023, Https://Www.Techtransparencyproject.Org/Articles/Google-Helps-Fake-Abortion-Clinics-Target-Low-Income-Women

[464] Amnesty International, *Obstacles to Autonomy Post-Roe Removal of Abortion Information Online*, 10 June 2024; https://www.amnestyusa.org/obstacles-to-autonomy-post-roe-removal-of-abortion-information-online

[465] The Alliance, State Advocates For Women's Rights & Gender Equality, "Designed To Deceive: A Study Of The Crisis Pregnancy Center Industry In Nine States." 2021, Https://Alliancestateadvocates.Org/Wp-Content/Uploads/Sites/107/Alliance_Cpc_Report_Final11-4-1.Pdf

8. CONCLUSION AND RECOMMENDATIONS

This report offers an overview and analysis of the unprecedented human rights crisis faced by all individuals who can become pregnant in the United States following the US Supreme Court decision in *Dobbs v. Jackson Women's Health Organization* in June 2022. Through raising the profile of the stories from impacted persons nationwide, Amnesty International outlines the urgency of addressing the devastating consequences of the *Dobbs* decision and how state and federal laws and policies violate the US government's human rights obligations under international law. Amnesty International is indebted to all the people who courageously came forward to share their stories and experiences. This report seeks to illuminate the voices of impacted individuals, advocates, community members, healthcare providers, and others impacted by abortion bans and restrictions in the US and is underpinned by a conviction that their perspectives must inform all efforts to restore abortion care nationwide.

PROTECTING THE RIGHT TO ABORTION

- The US government must guarantee sexual and reproductive rights for all women, girls, and people who can become pregnant, including timely and effective access to abortion care by adopting an explicit law protecting the right to abortion.
- State governments must fully decriminalize abortion, which requires not only stopping punishment of pregnant people for their pregnancy outcomes, healthcare providers and others for obtaining, assisting with or providing abortion services, but also removing abortion from criminal laws and all other punitive laws, policies and practices, and refraining from adoption of further restrictions on or introducing new barriers to abortion.
- State governments should eliminate narrow and vague laws regarding what constitutes an emergency medical exception to abortion and instead allow physicians to provide care in-line with their medical and ethical obligations, including when assessing patient risk and counselling patients on their

potential treatment options, without the threat of criminal or civil liability and/or requiring them to abstain from or delay care.

- State governments must, remove any regulations of abortions that are not imposed on other healthcare services, integrate abortion care within the provision of comprehensive sexual and reproductive healthcare, and ensure services are available, accessible and affordable, and of quality, and provided without discrimination or coercion, and with respect to pregnant person's privacy, confidentiality and human rights.
- State governments must publish clear guidance on state laws regulating abortion and ensure that hospitals and health systems provide clear guidance to ensure healthcare providers can provide comprehensive evidence-based care in-line with their medical and ethical obligations, without a fear of criminal liability.
- State governments must allow all those seeking abortion care to travel freely within and across state borders to obtain care without fear of criminalization, deportation, surveillance and/or harassment.

ENSURING EQUITABLE ACCESS TO ABORTION WITHOUT DISCRIMINATION

- The US government should repeal the Hyde Amendment and commit federal funding to subsidize abortion care, particularly for low-income and marginalized communities, and specifically for Indigenous communities according to their federal trust obligations.
- State governments must ensure equitable and affordable access to abortion to all people who need it without discrimination. States that do not currently include abortion in state Medicaid coverage should do so without limitations.
- States should guarantee that resources are allocated to ensure that communities who have been historically and systematically disadvantaged and harmed by abortion bans and who lack access to abortion and other reproductive healthcare are prioritized for equitable and compassionate provision of care by trained healthcare professionals.
- Municipalities in states where abortion is banned should request allocation of budgets/funding to support individuals seeking abortion care out of state, particularly for low-income individuals.
- The US government should issue guidance for people being held in local, state, and federal facilities, including those in immigration detention or those in correctional facilities, that allows them to be transferred without harassment or criminalization to a state where they can get abortion care and should ensure that people who can get pregnant within these facilities have information about how to access abortion care.
- States should provide funding for direct service organizations to engage in outreach to disproportionately impacted communities to provide information, supplies, and access to abortion care, particularly when individuals reside in areas where healthcare is not readily available.

- The federal and state governments should ensure that sexual and reproductive health information, including information on abortion and post-abortion care, is provided in accessible formats for people with disabilities and/or for whom English is not their first language.

ENSURING QUALITY REPRODUCTIVE HEALTHCARE

- The US government should invest in evidence-based, comprehensive reproductive health services; fund state and federal family planning services; ensure that qualified, comprehensive family planning professionals can participate in the Medicaid program; and ensure practical and economic access to abortion care for all by providing financial support to those who cannot afford it.
- Federal and state governments should ensure that pregnant individuals have access to adequate maternal healthcare throughout their pregnancy and during the post-partum period and that all steps are taken to reduce preventable maternal mortality and morbidity in the United States.
- The US government should support and allocate funding for abortion doula training and holistic healthcare that allows for abortion care from a range of providers.
- State governments must provide timely and effective access to comprehensive sexual and reproductive health information, goods, and services, including medication abortion, to all people who need it without discrimination.
- The federal government should permanently increase funding for the IHS and Tribes that administer their own health services and provide mandatory and advance funding so that healthcare services do not stop when Congress fails to pass a timely budget or when the federal government shuts down.
- The IHS and other health service providers should ensure that all American Indian and Alaska Native people have access to comprehensive and culturally competent sexual and reproductive healthcare, including obstetrics and pre- and post-natal care, and that such reproductive healthcare is consistent across IHS.

REMOVING BARRIERS TO SELF-MANAGED ABORTION

- The Department of Health and Human Services should develop and distribute guidance to ensure access to accurate information on how to access abortion care, including with medication abortion at a clinic or as self-administered and to self-assess the success of the abortion, and where to seek post-abortion care in case of complications.
- The federal and state governments should ensure that abortion medication is available in all states through both physician and non-physician medical professionals, telehealth, certified pharmacies, and mail.

REDUCING PREVENTABLE MATERNAL MORTALITY AND MORBIDITY

- The federal and state governments must fund research on and enact measures to combat preventable maternal mortality and morbidity and the impact of criminalization on patients and providers.
- States should enact measures to address the disparate impact of lack of access to reproductive healthcare on incidence and prevalence of maternal mortality and morbidity among Black, Indigenous, immigrant and other marginalized communities. States should have maternal mortality review boards, statewide data collection on maternal mortality and morbidity, and a box on death certificates indicating if someone has been pregnant within the last 12 months.
- The Department of Health and Human Services should continue to provide guidance on and investigate cases where hospitals and facilities are violating the EMTALA by failing to provide health-stabilizing care to patients in cases of medical emergencies.

COMBATING ABORTION STIGMA

- State governments must create an enabling environment for women, girls and all people who can become pregnant to make autonomous and informed decisions about their pregnancies and bodies, including by providing comprehensive sexuality education, tackling abortion-related stigma, and combatting harmful stereotypes and discrimination that underlie restrictive abortion laws and policies.

PROTECTING THOSE WHO PROVIDE ABORTION CARE AND THOSE WHO ASSIST OTHERS IN OBTAINING ABORTION CARE

- The US government must prohibit the prosecution, disbarment, loss of license, and/or other retribution or reprimanding measures against healthcare professionals simply for providing abortion care.
- The US government should enact measures to protect human rights defenders and those who support, accompany and provide abortions to individuals seeking care, as well as ensure they do not face violence, threats of violence, intimidation and harassment.

PROTECTING THE PRIVACY OF PATIENTS SEEKING ABORTION CARE

- The US government must strengthen privacy protections in the context of sexual and reproductive healthcare and ensure that private companies, data brokers and other entities are not disclosing and sharing people's private health information.
- The federal and state governments must protect the confidentiality of persons who can become pregnant and medical professionals by: (1) limiting the collection of patient data; (2) prohibiting the disclosure of confidential information to any third parties, including law enforcement, without consent; and (3) informing patients of their right to privacy and the confidentiality of their visit and queries.
- The US Congress should pass the Reproductive Data Privacy and Protection Act and ensure that any data obtained by law enforcement does not involve or pertain to the criminalization of pregnant people or people seeking abortion information or services.

COMBATTING DECEPTIVE AND HARMFUL PRACTICES TARGETING INDIVIDUALS WHO SEEK ABORTIONS

- The US government should make every effort to combat misinformation around abortion and to address abortion-related stigma, which are key barriers preventing pregnant people from having timely access to safe and high-quality healthcare.
- The US government should ensure that CPCs that identify as health clinics or claim to provide medical services must be subject to all regulations governing medical facilities.
- The US Congress should pass legislation such as the Stop Anti-Abortion Disinformation by Crisis Pregnancy Center Act that prevents anti-abortion disinformation.
- State governments should cease state-sanctioned CPC referrals by repealing laws mandating that people seeking abortion care be referred to CPCs and by removing CPCs from state-generated referral material.

COMPLY WITH INTERNATIONAL HUMAN RIGHTS LAW AND STANDARDS

- The US government should ratify, without delay, the following international human rights treaties: (1) The Convention on the Elimination of All Forms of Discrimination against Women; (2) The International Covenant on Economic, Social and Cultural Rights; (3) The Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women

("Convention of Belém do Pará"); and (4) ILO Convention No. 169, concerning Indigenous and Tribal Peoples in Independent Countries; and American Convention on Human Rights.

- The US government should include information in its reports to UN treaty bodies on: a) the implementation of the US international legal obligations to respect, protect and fulfil the individual and collective rights of Indigenous people; and b) steps that they are taking to address racial disparities in access to abortion services.

ANNEX 1: INTERNATIONAL HUMAN RIGHTS FRAMEWORK

WHY IS ABORTION A HUMAN RIGHTS ISSUE?

> **"Criminalization of termination of pregnancy is one of the most damaging ways of instrumentalizing and politicizing women's bodies and lives, subjecting them to risks to their lives or health in order to preserve their function as reproductive agents and depriving them of autonomy in decision-making about their own bodies."**
>
> *– UN Working Group on Discrimination against Women and Girls (2016)*[466]

Equal access to abortion is a human right. Abortion is firmly rooted within States' legal obligations to respect, protect, and fulfil human rights because access to abortion-related information and services is essential to the realization of a wide range of other human rights, including the rights to life, health, privacy, information, liberty and security, freedom from torture and other cruel, inhuman or degrading treatment or punishment ('other ill-treatment'), and freedom from discrimination. While abortion is only explicitly referenced within the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa ('Maputo Protocol'),[467] there has been an increasing recognition among all UN bodies monitoring the implementation of human rights treaties that solely permitting abortion in certain circumstances fails to protect the human rights of all pregnant persons. As such, human rights bodies, experts, and UN agencies have moved away from recommending that States simply expand exceptions to their criminal abortion laws, to calling for full decriminalization and removal of legal, regulatory, health system and societal barriers to ensure safe abortion access for all who need it.[468] The World Health Organization (WHO), relying on

[466] The UN Working Group on the issue of discrimination against women in law and in practice, Report of the Working Group, UN Doc. A/HRC/32/44 (2016), para. 79.
[467] Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol Text). African Union; 2003, Art.14.2 (c).
[468] Amnesty International, Policy on Abortion: Explanatory Note (previously cited) p. 33.

extensive public health evidence, also recommends full decriminalization of abortion and provision of abortion services on request, and recommends against laws and other regulations that restrict abortion to certain grounds.[469]

US INTERNATIONAL LEGAL OBLIGATIONS

By allowing pervasive denial of abortion care and increasing restrictions on this lifesaving and health-preserving health intervention, the US government is violating its international human rights obligations as set forth in treaties to which it is a party and/or a signatory. The USA has ratified the International Covenant on Civil and Political Rights (ICCPR),[470] the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD),[471] and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).[472] The US has also signed, but not yet ratified, the International Covenant on Economic, Social and Cultural Rights (ICESCR),[473] the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),[474] the Convention on the Rights of the Child (CRC), and the Convention on the Rights of Persons with Disabilities (CRPD).[475] As a signatory to these treaties, the US must refrain from acts that would defeat their object and purpose.[476]

Collectively these treaties enshrine a number of complementary human rights in law. While the USA has committed to respecting, protecting, and fulfilling these rights, it is infringing on them through adopting and enforcing a range of restrictions on abortion, as well as failing to remove existing barriers to abortion access to the detriment of women, girls and all people who can become pregnant. Human rights bodies have confirmed that "human rights treaty obligations encompass the reproductive rights of

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[469] WHO, *Abortion Care Guideline, 2022*, p. 24, https://iris.who.int/bitstream/handle/10665/349316/9789240039483-eng.pdf?sequence=1. (The WHO defines full decriminalization as the "remov[al of] abortion from all penal/criminal laws, not applying other criminal offences (e.g. murder, manslaughter) to abortion, and ensuring there are no criminal penalties for having, assisting with, providing information about, or providing abortion, for all relevant actors).

[470] See United Nations, The State Parties to the International Covenant on Civil and Political Rights (ICCPR), available at https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&clang=_en&mtdsg_no=IV-4&src=IND (US ratification, 8 June 1992).

[471] See United Nations, The State Parties to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-2&chapter=4&clang=_en (US ratification, 21 Oct. 1994).

[472] See United Nations, The State Parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), https://www.ohchr.org/sites/default/files/cat.pdf (US ratification, 21 Oct. 1994).

[473] See United Nations, The State Parties to the International Covenant on Economic, Social and Cultural Rights (ICESCR), https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-3&chapter=4 (US ratification, 5 Oct. 1977

[474] See United Nations, The State Parties to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-8&chapter=4&clang=_en (US ratification, 17 July 1980).

[475] See United Nations, The State Parties to the Convention on the Rights of the Child (CRC), https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&clang=_en (US ratification, 16 Feb. 1995).

[476] See United Nations, Vienna Convention on the Law of Treaties (23 May 1969), United Nations, Treaty Series (Vol. 1155) (VCLT), Art. 18.

women and girls, including safe and legal abortion access."[477] Specifically, the US government's international legal obligations around abortion are grounded in the rights to life, health, privacy, information, liberty and security, freedom from torture and other CIDT, and freedom from discrimination.[478] Set forth below, is an overview of the human rights that are violated amidst diminishing access to abortion-related information and services across the country and authoritative evolving international legal standards around abortion that outline the government's international legal obligations in this regard.

RIGHT TO LIFE

Sexual and reproductive health is widely recognized as essential to women's and girls' right to life. Human rights bodies and experts have consistently urged States to ensure access to reproductive health services, including abortion services, for all women and adolescents.[479] While States can regulate abortion, such laws and policies must not violate pregnant persons' right to live or other rights.[480] When interpreting the right to health, human rights bodies have confirmed that States should remove barriers to safe and legal abortion access and refrain from introducing new ones,[481] as well as ensure that women do not have to undertake life-threatening clandestine abortions.[482] Additionally, requiring doctors or other health providers to report persons who have undergone (or suspected of having undergone) an abortion is an interference that jeopardizes women's right to life, as well as their right to be free from torture and other

[477] See Brief of the United Nations Mandate Holders as Amici Curiae, *Dobbs v. JWHO.*, 142 S. Ct. 2228, p. 9 (20 Sept. 2021), www.supremecourt.gov/DocketPDF/19/19-1392/193045/20210920163400578_19-1392%20bsac%20United%20Nations%20Mandate%20Holders.pdf

[478] As recently summarized by the Working Group on discrimination against women and girls: "sexual and reproductive health rights are clearly established under international law. They are an integral part of a number of civil and political rights that underpin the physical and mental integrity of individuals and their autonomy, such as the rights to life, liberty and security of person, freedom from torture and other cruel, inhuman or degrading treatment, privacy and respect for family life, as well as economic, social and cultural rights, such as the rights to health, education and work and the right to enjoy the benefits of scientific progress, and the cross-cutting rights of non-discrimination and equality." Working Group on discrimination against women and girls, Women's and girls' sexual and reproductive health rights in crisis (U.N. Doc. A/HRC/47/38) (28 Apr. 2021), para. 18.

[479] Human Rights Committee, Concluding Observations: Cameroon, UN Doc. CCPR/C/CMR/CO/4 (2010), para. 13 (urging the state to "step up its efforts to reduce maternal mortality, including by ensuring that women have access to reproductive health services."). See also Human Rights Committee, Concluding Observations: Chile, UN Doc. CCPR/C/CHL/CO/6 (2014), para. 15; Costa Rica, UN Doc. CCPR/C/CRI/CO/6 (2016), para. 17; Malawi, UN Doc. CCPR/C/MWI/CO/1/Add.1 (2014), para. 9; Sierra Leone, UN Doc. CCPR/C/SLE/CO/1 (2014), para. 14; Malta, UN Doc. CCPR/C/MLT/CO/2 (2014), para. 13; Sri Lanka, UN Doc. CCPR/C/LKA/CO/5 (2014), para. 10; Paraguay, UN Doc. CCPR/C/PRY/CO/3 (2013), para. 13; Peru, UN Doc. CCPR/C/PER/CO/5 (2013), para. 14; Guatemala, UN Doc. CCPR/C/GTM/CO/3 (2012), para. 20; Jamaica, UN Doc. CCPR/C/JAM/CO/3 (2011), para. 14; Dominican Republic, UN Doc. CCPR/C/DOM/CO/5 (2012), para. 15. See also Human Rights Committee, Concluding Observations: Mali, UN Doc. CCPR/CO/77/MLI (2003), para. 14 (on emergency obstetrics care); Peru, UN Doc. CCPR/C/PER/CO/5 (2013), para. 14 (on emergency contraception).

[480] Human Rights Committee, *General Comment 36 (Article 6: Right to Life)*, UN Doc. CCPR/C/GC/36 (Sept. 3, 2019), para. 8.

[481] *Id.*

[482] HRC, General Comment No. 28: Article 3 (The Equality of Rights between Men and Women) (2000) UN Doc. CCPR/C/21/Rev.1/Add.10) The UN Special Rapporteur on extrajudicial, summary and arbitrary executions has observed that the death of a woman medically linked to deliberate denial of life-saving medical care because of a legal ban on abortion is a violation of the right to life and a gender-based arbitrary killing. See Special Rapporteur on extrajudicial, summary or arbitrary executions, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on a gender-sensitive approach to arbitrary killings (2017) UN Doc. A/HRC/35/23

CIDT.[483] Moreover, human rights bodies have called on States to "avoid penalizing medical professionals in the conduct of their professional duties" in relation to abortion and the right to life.[484]

HRC'S 2023 CONCLUDING OBSERVATIONS TO THE USA

In the UN Human Rights Committee's (human rights body tasked with reviewing state compliance with the ICCPR) recent review of the US government's treaty compliance, it expressed great concern about the "increase in legislation, barriers and practices at the state level that impede women's access to safe and legal abortion, such as the criminalization of various actors in connection with their role in providing or seeking abortion care, including health-care providers, persons who assist women to procure an abortion, notably family members, and pregnant women seeking an abortion."[485]

The Committee also raised alarm about "restrictions on inter-state travel, bans on medication abortion and the surveillance of women seeking abortion care through the use of their digital data for prosecution purposes . . . [and] the profound impact of those measures on the rights of women and girls seeking an abortion, including the rights to life, to privacy and not to be subjected to cruel and degrading treatment, and in particular at the disproportionate impact on women and girls with low incomes and from vulnerable groups, those living in rural areas and those belonging to racial and ethnic minorities."[486]

Relying on its interpretation of the right to life and the UN Committee on the Elimination of Racial Discrimination's (human rights body tasked with reviewing state compliance with the ICERD) recent review of the USA,[487] the HRC called on the government to "take all measures necessary at the federal, state, local and territorial levels to ensure that women and girls do not have to resort to unsafe abortions that may endanger their lives and health".[488] In particular, it recommended that the US government:

a) Provide legal, effective, safe and confidential access to abortion for women and girls throughout its territory, without discrimination and free from violence and coercion; including through the adoption of legislative initiatives such as the Women's Health Protection Act;
b) Put and end to the criminalization of abortion by repealing laws that criminalize abortion, including laws under which criminal sanctions may be imposed on women and girls who undergo abortion, health service providers who assist women and girls to undergo abortion and persons who assist women and girls to procure an abortion, and consider harmonizing its legal policy framework with the abortion care guideline of the World Health Organization (2022);
c) Ensure that the professional secrecy of medical staff and patient confidentiality are observed, including by strengthening privacy protections under the Health Insurance

[483] Human Rights Committee, General Comment 28 (equality of rights between men and women), UN Doc. CCPR/C/21/Rev.1/Add. 10 (2000), para. 20.
[484] Human Rights Committee, Concluding Observations: Nicaragua, UN Doc. CCPR/C/NIC/CO/3 (2008), para. 13
[485] HRC, Concluding Observations: USA, UN Doc. CCPR/C/USA/CO/5, (2023) para. 28.
[486] *Id.* (referencing Arts. 2, 3, 6, 7, 17 and 26 of the ICCPR).
[487] CERD, Concluding Observation: USA, UN Doc. CERD/C/USA/CO/10-12, (2022) para. 36.
[488] HRC, Concluding Observations: USA, UN Doc. CCPR/C/USA/CO/5, (2023) para. 29.

Portability and Accountability Act, and protect women seeking abortion care from surveillance of their personal digital data for prosecution purposes;

d) **Remove barriers currently impeding access to abortion care,** including inter-state travel restrictions, and refrain from introducing new barriers;

e) **Continue efforts to guarantee and expand access to medication abortion.**[489]

To date, the US government has failed to heed the HRC's detailed recommendations.

RIGHT TO HEALTH

Access to safe abortion is guaranteed under the right to health.[490] Rights explicitly protected under the right to health include "the right to make free and responsible decisions and choices, free of violence, coercion and discrimination, regarding matters concerning one's body and sexual and reproductive health".[491] This right also entitles all people to the "full enjoyment of the right to sexual and reproductive health."[492] The top UN expert on the right to health has confirmed that access to "family planning, contraception including emergency contraception, safe abortion services and post-abortion care is a component of the right to health".[493]

States' international legal obligations related to the right to health include ensuring safe abortions are available, accessible and of good quality.[494] Where abortion is legal, States must establish systems to guarantee effective access to abortion,[495] without adverse consequences for women or health-care providers.[496] Additionally, States should protect abortion care providers from harassment, violence, kidnappings and murders perpetrated by non-state actors.[497]

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[489] *Id.* at para. 29.

[490] See ICERD, Art. 5(e)(iv) (ratified by the USA); ICESCR Art. 12 (signed by the USA); CEDAW Arts. 11(1)(f), 12, 14(2)(b) 12 (signed by the USA); CRPD Art. 25 (signed by the USA); CRC Art. 24 (signed by the USA). See also CESCR, General Comment No. 22 (2016) on the right to sexual and reproductive health (U.N. Doc. E/C.12/GC/22) (2 May 2016), paras. 10-11, 13-14, 45, 49; CRC Committee, General comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (U.N. Doc. CRC/C/GC/15) (17 Apr. 2013), para. 56; Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Violence and its impact on the right to health (U.N. Doc. A/HRC/50/28) (14 Apr. 2022), para. 20 (describing how "States violate the right to health when they fail to take effective steps to prevent third parties from undermining the enjoyment of the right to sexual and reproductive health").

[491] Committee on Economic, Social and Cultural Rights, *General Comment 22 on the right to sexual and reproductive health*, U.N. Doc. E/C.12/GC/22 (May 2, 2016), para. 5.

[492] Committee on Economic, Social and Cultural Rights, *General Comment 22 on the right to sexual and reproductive health*, U.N. Doc. E/C.12/GC/22 (May 2, 2016), para. 5.

[493] UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Sexual and reproductive health rights: challenges and opportunities during the COVID-19 pandemic (2021) UN Doc. A/76/172), para. 33.

[494] Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Interim Report to the General Assembly (2011) UN Doc. A/66/254.

[495] HRC, *LC v Perú* (2011) UN Doc. CEDAW/C/50/D/22/2009.

[496] Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Report to the Report to the Human Rights Council (2013) UN Doc. A/HRC/22/53.

[497] Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Interim Report to the General Assembly (2011) (UN Doc. A/66/254)).

ENSURE ACCESS TO ABORTION RELATED INFORMATION

The right to health also guarantees the right to non-biased evidence-based sexual and reproductive health information,[498] including on safe abortion and post-abortion care and its legal availability, in accessible formats.[499] To this end, States are obligated to permit abortion-related health information to flow freely without state interference on moral or other grounds.[500] Healthcare providers must also be able to provide abortion-related information without fear of criminal sanction.[501]

REMOVE BARRIERS TO ABORTION

The right to health further requires States to repeal and refrain from enacting laws and policies that create barriers to abortion access, including biased counselling requirements and mandatory waiting periods for access to abortion.[502] While States may be permitted to regulate abortion, such regulation cannot violate women's and girls' right to life, jeopardize their health, subject them to physical or mental pain or suffering, discriminate against them, or arbitrarily interfere with their privacy.[503] States must also take all reasonable measures to enable health-care providers to undertake their work without undue interference, intimidation, or restrictions.[504]

GESTATIONAL LIMITS VIOLATE STATES' INTERNATIONAL LEGAL OBLIGATIONS

A foremost barrier to safe abortion is time-based restrictions or 'gestational limits'. While 14 US states have total abortion bans, 27 states have abortion bans based on gestational duration—with some as extreme as 6 weeks of gestation.[505] The WHO recommends against laws and regulations that impose gestational limits as research confirms that they delay abortion access, especially among women seeking abortions at later gestational stages, women close to the gestational age limit and those living in areas with limited access to clinics.[506] Gestational limits are also associated with higher rates of maternal mortality and morbidity, and poor health outcomes, contrary to States' international

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[498] Access to accurate, evidence-based SRH information is also protected by the right to information and education. See Article 19, ICCPR Article 19, UDHR Article 10, 14, 16 CEDAW Article 21, CRPD 41 Article 13, 17, CRC.

[499] CESCR, General Comment 22: The right to sexual and reproductive health (Article 12 of the International Covenant on Economic, Social and Cultural Rights) (2016) UN Doc. E/C/12/GC/22; CRPD, General Comment No. 3: Article 6: Women and girls with disabilities, (2016) UN Doc. CRPD/C/GC/3; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Interim Report to the General Assembly (2011) UN Doc. A/66/254.

[500] Report of the United Nations Working Group on the issue of discrimination against women in law and in practice (2016), UN Doc. A/HRC/32/44.

[501] HRC, Whelan v Ireland (2017, UN Doc. CCPR/C/11/D/2425/2014; HRC, Mellet v Ireland, (2016) UN Doc. CCPR/C/116/D/2324/2013); CESCR, General Comment No. 22: The right to sexual and reproductive health (Article 12 of the ICESCR), (2016) UN Doc. E/C/12/GC/22.

[502] CESCR, General Comment 22 on the right to sexual and reproductive health (Article 12 of the International Covenant on Economic, Social and Cultural Rights) (2016) UN Doc. E/C/12/GC/22.

[503] HRC, General Comment No. 36: Article 6 of the International Covenant on Civil and Political Rights, on the right to life (2018) UN Doc. CCPR/C/GC/36.

[504] Special Rapporteur on extrajudicial, summary or arbitrary executions, Report to the General Assembly (2018) UN Doc. A/73/314*.

[505] Guttmacher Institute, *State Bans on Abortion throughout Pregnancy, 2024,* www.guttmacher.org/state-policy/explore/state-policies-abortion-bans (Florida, Georgia, South Carolina ban abortion after 6 weeks of gestation).

[506] WHO, *Abortion Care Guideline (2022),* p. 28.

human rights obligations to prevent unsafe abortion and reduce maternal mortality and morbidity.[507]

The WHO has confirmed that while international law requires abortion regulation to be evidence-based, scientifically and medically appropriate, and up to date, gestational limits wholly lack basis in evidence.[508] Gestational limits similarly contravene States' international legal obligation to not regulate pregnancy or abortion in a manner that is contrary to their duty to ensure that women and girls do not have to resort to unsafe abortion, thus requiring States to revise these laws.[509]

ENSURE NON-DISCRIMINATORY ACCESS TO ABORTION CARE

The rights to health and to freedom from discrimination intersect to prohibit States from discriminating in access to healthcare and compelling healthcare providers to deny services to women exercising their reproductive rights.[510] Human rights experts have also confirmed that "criminalization of or other failure to provide services that only women require, such as abortion and emergency contraception, constitute discrimination based on sex".[511] The CEDAW Committee has long recognized that neglecting, overlooking or failing to accommodate women's specific health needs, including in relation to pregnancy, is a form of discrimination against women[512] and that it is discriminatory to refuse to provide legally for the performance of reproductive health services that women need, such as abortion.[513]

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[507] WHO, *Abortion Care Guideline (2022*), p. 28.
[508] WHO, *Abortion Care Guideline (2022),* p. 28.
[509] WHO, *Abortion Care Guideline (2022),* p. 28.
[510] Special Rapporteur on extrajudicial, summary or arbitrary executions, Report to the General Assembly (2018) (UN Doc. A/73/314*.
[511] Joint Statement by the UN Special Rapporteurs on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, on the situation of human rights defenders, on violence against women, its causes and consequences, and the UN Working Group on the issue of discrimination against women in law and in practice, Rapporteur on the Rights of Women of the Inter-American Commission on Human Rights and the Special Rapporteurs on the Rights of Women and Human Rights Defenders of the African Commission on Human and Peoples' Rights, 'The 2030 Agenda for Sustainable Development and its implementation mark a unique opportunity to ensure full respect for sexual and reproductive health and rights which must be seized', 2015, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16490&LangID=E.
[512] CEDAW Committee, General Recommendation 24, supra note __, paras 6, 11, 12; CEDAW Committee, *Alyne da Silva Pimentel Teixeira v Brazil*, supra note __; R.J. Cook and V. Undurraga, 'Article 12 [Health]', in M. Freeman, C. Chinkin and B. Rudolf (eds.), The UN Convention on Elimination of All Forms of Discrimination against Women: A Commentary, 2012, pp. 311-333, pp. 326-327; see also CESCR, General Comment 22, supra note __, paras 9- 10, 28, 34; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, UN Doc. A/66/254 (2011), paras 16 and 34; UN Working Group on the issue of discrimination against women in law and in practice, Report of the Working Group, Human Rights Council, UN Doc. A/HRC/32/44 (2016), para. 23; Human Rights Committee, *Mellet v Ireland*, supra note ___, concurring opinions of members: Cleveland, Ben Achour, and Rodríguez Rescia, de Frouville and Salvioli.
[513] CEDAW Committee, General Recommendation 24 (Article 12: Women and Health), UN Doc. A/54/38/Rev.1, chap. 1 (1999). The CEDAW Committee reaffirmed their positions in the cases of *L.C. v Peru*[513] and *Alyne da Silva Pimentel v Brazil*,[513] as well as in their inquiries on the Philippines[513] and on Northern Ireland,[513] that health-care provision should not discriminate on the grounds of sex/gender and guarantee gender equality. CEDAW Committee, *L.C. v Peru*, Comm. No. 22/2009, UN Doc. CEDAW/C/50/D/22/2009 (2011); CEDAW Committee, *Alyne da Silva Pimentel Teixeira v Brazil*, Comm. No. 17/2008, UN Doc. CEDAW/C/49/D/17/2008 (2011); CEDAW Committee, Summary of the Inquiry concerning the Philippines under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, UN Doc. CEDAW/C/OP.8/PHL/1 (2015).

States are obligated to repeal discriminatory criminal laws, including laws that criminalize abortion,[514] and create the structural conditions in which women, girls and all those who can become pregnant are enabled to make autonomous decisions about their bodies, sexualities, reproduction and lives and have sufficient economic and social support to raise children, should they choose to do so, in safe and sustainable communities.

UN EXPERT BODIES CALL FOR FULL DECRIMINALIZATION OF ABORTION

There has been an increasing recognition among human rights bodies and experts that solely permitting legal abortion on narrow grounds, such as the case in many US states, does not address the many reasons people seek abortion,[515] or guarantee effective access to lawful abortion.[516] Rather, criminal abortion laws chill the provision of services, stigmatize abortion, and have a harmful impact on pregnant people, particularly those who are marginalized.[517] For example, where abortion access is limited to selected grounds, those living in poverty or who are marginalized are less likely to be able to access abortion services through other routes (for example, in private care or another jurisdiction) and so are forced to opt for unsafe abortions and consequently are at higher risk of prosecution and punishment.

Human rights bodies thus now call for States to fully decriminalize abortion and ensure equal access to safe abortion services for all who need them.[518] For example, recognizing abortion criminalization as a form of gender-based violence that may amount to CIDT, the CEDAW Committee now recommends that States repeal all provisions that criminalize abortion, which are discriminatory against women.[519] The UN Committee on the Rights of the Child (human rights body tasked with review of state compliance with the CRC) has also consistently recommended that states "decriminalize abortions in all circumstances and review its legislation with a view to ensuring children's access to safe

[514] See CEDAW, General Recommendation 33 (women's access to justice), UN Doc. CEDAW/C/GC/33 (2015), para. 51(I); CESCR Committee, General Comment 22, supra note ___, paras 34, 40, 57.
[515] S. Chae, S. Desai, M. Crowell, G. Sedgh, "Reasons why women have induced abortions: A synthesis of findings from 14 countries," Contraception, October 2017; 96(4): 233-241.
[516] Amnesty International, Abortion Policy: Explanatory Note, p. 35-36.
[517] Human Rights Committee, Concluding Observations: Poland, UN Doc. CCPR/CO/82/POL (2004), para. 8; CESCR Committee, Concluding Observations: Poland, UN Doc. E/C.12/1/Add.82 (2002), para. 29. See also CEDAW Committee, Concluding Observations: New Zealand, UN Doc. CEDAW/C/NZL/CO/7 (2012), para. 34. See also CRC Committee, Concluding Observations: Zimbabwe, UN Doc. CRC/C/ZWE/CO/2 (2016), para. 60(c); Poland, UN Doc. CRC/C/POL/CO/3-4 (2015), para. 39(b). See also CESCR Committee, Concluding Observations: Poland, UN Doc. E/C.12/POL/CO/6 (2016), paras 46-47.
[518] UN Office of the High Commissioner for Human Rights, 'International Safe Abortion Day – Thursday 28 September 2017. Safe abortions for all women who need them – not just the rich, say UN experts', 27 September 2017. The UN experts: Kamala Chandrakirana, Chair-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice; Dubravka Simonovic, Special Rapporteur on violence against women, its causes and consequences; Dainius Pûras, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Ms Agnes Callamard, Special Rapporteur on extrajudicial, summary or arbitrary executions, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22167&LangID=E; *see also* CEDAW, Concluding Observations: Guatemala, UN Doc. CEDAW/C/GTM/CO/R.10), 2023, para. 39(a); CEDAW, Concluding Observations: Brazil, UN Doc. CEDAW/C/BRA/CO/8-9, 2024, para. 35 (a).
[519] CEDAW, General Recommendation No. 35: Gender-based violence against women, updating General Recommendation No. 19 (2017) UN Doc. CEDAW/C/GC/35.

abortion and post-abortion care services" and affirmed that "[t]he views of the child should always be heard and respected in abortion decisions."[520] This Committee has further recommended that States "ensure children [have] access to safe abortion and post-abortion care irrespective of whether abortion is legal."[521]

The UN Committee on Economic, Social and Cultural Rights (human rights body tasked with review of state compliance with the ICESCR) has also called on states to "liberalize restrictive abortion laws" and "guarantee access to safe abortion services and quality post-abortion care"[522] and advised states to ensure that sexual and reproductive healthcare includes access to safe abortion services.[523] As referenced earlier, the WHO has urged states fully decriminalize abortion and provide abortion on request and the provision of abortion for all who need it, as well as recommended against laws and other regulations that restrict abortion to certain grounds.[524]

RIGHT TO PRIVACY

Human rights bodies have firmly established that an individual's decision to seek an abortion falls under their right to privacy.[525] UN experts have further confirmed that restrictive abortion laws and policies not only contravene human rights law, but also

[520] See CRC Committee, Concluding Observations: Gambia, UN Doc. CRC/C/GMB/CO/2-3 (2015); Honduras, UN Doc. CRC/C/HND/CO/4-5 (2015); Haiti, UN Doc. CRC/C/HTI/CO/2-3 (2016); United Kingdom of Great Britain and Northern Ireland, UN Doc. CRC/C/GBR/CO/5 (2016); Zimbabwe, UN Doc. CRC/C/ZWE/CO/2 (2016); Sierra Leone, UN Doc. CRC/C/SLE/CO/3-5 (2016); Bhutan, UN Doc. CRC/C/BTN/CO/3-5 (2017). See also CRC Committee, General Comment 20, supra note __, para. 60.

[521] CRC, General Comment 15 (the right of the child to the enjoyment of the highest attainable standard of health (Article 24) (2013), UN Doc. CRC/C/GC/15.

[522] CESCR Committee, General Comment 22, supra note __, para. 28.

[523] CEDAW Committee, General Recommendation 30, supra note ___, para. 52 (c); See also CEDAW Committee, Concluding Observations: New Zealand, UN Doc. CEDAW/C/NZL/CO/7 (2012), para. 35(a) (permitting abortion where pregnancy poses a risk to the woman's physical or mental health and in instances of rape or incest to amend its abortion law "to ensure women's autonomy to choose."). See also CEDAW Committee, Concluding Observations: Sierra Leone, UN Doc. CEDAW/C/SLE/CO/6 (2014), para. 32.

[524] WHO, *Abortion Care Guideline, 2022*, p. 24, https://iris.who.int/bitstream/handle/10665/349316/9789240039483-eng.pdf?sequence=1 (The WHO defines full decriminalization as the "remov[al of] abortion from all penal/criminal laws, not applying other criminal offences (e.g. murder, manslaughter) to abortion, and ensuring there are no criminal penalties for having, assisting with, providing information about, or providing abortion, for all relevant actors).

[525] The Human Rights Committee has found violations of the right to privacy in every case it has considered when the State interfered with reproductive decision-making or abortion access. See HRC, *Whelan v. Ireland*, CCPR/C/119/D/2425/2014 ("Whelan v. Ireland"), para. 7.8; HRC, Mellet v. Ireland, CCPR/C/116/D/2334/2013 ("Mellet v. Ireland"), para. 7.7-7.8; HRC, K.L. v. Perú, CCPR/C/85/D/1153/2003 ("K.L. v. Perú"), para. 6.4; HRC, V.D.A. (on behalf of L.M.R.) v. Argentina, CCPR/C/101/D/1608/2007 ("V.D.A. v. Argentina"), para. 9.3; HRC, General Comment 28 (2000) on the equality of rights between men and women (U.N. Doc. CCPR/C/21/Rev.1/Add.10) (29 Mar. 2000), para. 20 ("States parties must provide information to enable the Committee to assess the effect of any laws and practices that may interfere with women's right to enjoy privacy" such as "where States impose a legal duty upon doctors and other health personnel to report cases of women who have undergone abortion. States parties should report on any laws and public or private actions that interfere with the equal enjoyment by women of the rights under article 17, and on the measures taken to eliminate such interference and to afford women protection from any such interference.").

"negate [women's] autonomy in decision-making about their own bodies."[526] Notably, abortion bans, similar to those proliferating in the USA, have been deemed an impermissible interference with the ability to decide whether and how to proceed with a pregnancy, in violation of the right to privacy.[527]

Requiring judicial authorization for abortion also violates the right to privacy because it imposes judicial intervention into what should be resolved between patient and doctor.[528] Similarly, requiring doctors and health-care providers to report cases where individuals have undertaken abortion fails to respect their privacy.[529] The right to privacy not only protects individuals' decision-making around pregnancy, but further requires States to ensure the availability of and access to confidential post-abortion care in all circumstances and regardless of legality of abortion.[530]

RIGHT TO SEEK, RECEIVE AND IMPART INFORMATION

All individuals have a right to seek, receive and impart evidence-based information on sexual and reproductive health, including safe abortion and post-abortion care.[531] Human rights bodies have confirmed that States should ensure the availability of accurate abortion-related information and that such information can flow freely without state interference on moral or other grounds.[532] To this end, individuals with unwanted pregnancy should be offered reliable information, including on where and when a pregnancy may legally be terminated,[533] and healthcare providers should be able to distribute this information without fear of criminal sanction.[534] Health information, including abortion-related information, should always be provided in a manner consistent with individual needs, taking age, gender, language ability, education, disability sexual orientation, gender identity, and intersex status into account[535] and in accessible formats.[536]

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[526] OHCHR, 'Unsafe abortion is still killing tens of thousands women around the world' – UN rights experts warn, 28 Sept 2016, Alda Facio, Chair-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice; Dainius Pūras, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Juan E. Méndez, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Dubravka Šimonović, Special Rapporteur on violence against women, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20600&LangID=E

[527] See *Whelan v. Ireland*, para. 7.9; *Mellet v. Ireland*, para. 7.8; K.L. v. Perú, para. 6.4.

[528] HRC, LMR v Argentina (2011) UN Doc. CCPR/C/101/D/1608/2007.

[529] HRC, General Comment 28: Article 3 (The Equality of Rights between Men and Women) (2000) UN Doc. CCPR/C/21/Rev.1/Add.10.

[530] HRC, General Comment 36: Article 6 of the International Covenant on Civil and Political Rights, on the right to life (2018) UN Doc. CCPR/C/GC/36

[531] CESCR, General Comment 22: The right to sexual and reproductive health (Article 12 of the International Covenant on Economic, Social and Cultural Rights) (2016) UN Doc. E/C/12/GC/22.

[532] Report of the United Nations Working Group on the issue of discrimination against women in law and in practice (2016) UN Doc. A/HRC/32/44.

[533] See Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Interim Report to the General Assembly (2011) UN Doc. A/66/254.

[534] HRC, *Whelan v Ireland* (2017) UN Doc. CCPR/C/11/D/2425/2014; HRC, *Mellet v Ireland*, United Nations (2016) UN Doc. CCPR/C/116/D/2324/2013.

[535] CESCR, General Comment 22: The right to sexual and reproductive health (Article 12 of the International Covenant on Economic, Social and Cultural Rights) (2016) UN Doc. E/C/12/GC/22; see also CRPD, General Comment 3, Article 6: Women and girls with disabilities (2016) UN Doc. CRPD/C/GC/3.

[536] CRPD, General Comment No. 3: Article 6: Women and girls with disabilities (2016) UN Doc. CRPD/C/GC/3.

RIGHT TO LIBERTY AND SECURITY OF THE PERSON

UN experts have observed that "[w]here abortion is illegal, women may face imprisonment for seeking an abortion and emergency services for pregnancy-related complications, including those due to miscarriages".[537] Additionally, "[f]ear of criminal punishment for 'aiding or abetting' abortions can lead health-care providers to report people suffering from pregnancy complications to authorities."[538] These observations are backed by evidence that criminal abortion laws significantly contribute to women's imprisonment.[539]

The arrest and imprisonment of individuals on abortion-related charges — including those experiencing miscarriage or stillbirth — infringes upon the right to liberty and security of the person.[540] The right to liberty is not simply a right to not be subjected to arbitrary and unjust detention,[541] but also prohibits unjust state interference with individuals' personal lives, including with regard to decisions around pregnancy and family life.

Beyond incarceration, forcing a pregnant person to carry a pregnancy to term amounts to both a physical and psychological invasion of their bodies and lives. Moreover, as criminalization of abortion compels pregnant people to obtain unsafe abortions, it violates their rights to security of person and physical integrity. In fact, human rights bodies have explicitly stated that the criminalization of abortion is a form of prohibited gender-based violence.[542]

RIGHT TO FREEDOM FROM TORTURE AND OTHER CIDT

The prohibition against torture and other CIDT is one of the most firmly rooted principles of international human rights law and has become a well-accepted norm of customary international law.[543] Human rights bodies have confirmed that certain state laws, particularly those that criminalize abortion and/or provide no exception in situations of rape, incest, threat to the life or health of the pregnant person, or fatal

[537] See Report of the UN Special Rapporteur on the right to highest attainable standard of physical and mental health, UN Doc. A/HRC/38/36 (2018), para. 75. See also CEDAW Committee, Concluding Observations: El Salvador, UN Doc. CEDAW/C/SLV/CO/8-9 (2017), paras 37-38.
[538] See Report of the UN Special Rapporteur on the right to highest attainable standard of physical and mental health, UN Doc. A/HRC/38/36 (2018), para. 75. See also CEDAW Committee, Concluding Observations: El Salvador, UN Doc. CEDAW/C/SLV/CO/8-9 (2017), paras 37-38.
[539] See Report of the UN Special Rapporteur on the right to highest attainable standard of physical and mental health, UN Doc. A/HRC/38/36 (2018), para. 75 (citing UN Docs A/66/254, A/68/340 and A/HRC/14/20).
[540] See ICCPR, Art. 9.
[541] See Human Rights Committee, General Comment 35 (Article 9: Liberty and security of person), UN Doc. CCPR/C/GC/35 (2014), paras 3, 5-6 and 10-14.
[542] CEDAW Committee, General Recommendation 35 on gender-based violence against women, updating General Recommendation 19, UN Doc. CEDAW/C/GC/35 (2017).
[543] *See Siderman de Blake v. Republic of Argentina*, 965 F.2d 699, 716 (9th Cir. 1992) ("There is no doubt that the prohibition against official torture is a norm of customary international law.").

fetal anomaly,[544] violate the right to be free from torture and other CIDT.[545] Narrow legal grounds that only permit abortion to save a pregnant person's life and not to preserve their health, fail to comply with States' international legal obligations to refrain from adopting policies that lead to torture or CIDT.[546] The CEDAW Committee (the human rights body asked with reviewing state compliance with CEDAW) has found that abortion criminalization, denial or delay of safe abortion and/or post-abortion care, and forced continuation of pregnancy are forms of gender-based violence that can rise to the level of torture or cruel, inhuman or degrading treatment.[547]

Human rights bodies have further confirmed that the prohibition of torture and other CIDT "relates not only to acts that cause physical pain but also to acts that cause mental suffering."[548] Along these lines, the UN Committee against Torture (the human rights body tasked with reviewing state compliance with the Convention against Torture) has acknowledged that abortion laws and denial of abortion can result in "physical and mental suffering so severe in pain and intensity as to amount to torture".[549] For example, denial of abortion, healthcare and bereavement support in cases of fatal fetal diagnosis has been found to lead to sufficient level of suffering to violate the right to freedom from torture and other CIDT.[550]

UN experts have also observed that discrimination against women and girls often underpins their torture and ill-treatment in health-care settings.[551] This is particularly the case when seeking healthcare services that are perceived to violate traditional social and gender norms, such as abortion.[552]

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[544] See, e.g., *Whelan v. Ireland*, para. 7.5-7.7; *Mellet v. Ireland*, para. 7.4-7.6; K.L. v. Perú, para. 6.3; V.D.A. v. Argentina, para. 9.2; CAT Committee, Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland (U.N. Doc. CAT/C/GBR/CO/6) (7 June 2019), paras. 46-47; CAT Committee, Concluding observations of the Committee against Torture - Paraguay (U.N. Doc. CAT/C/PRY/CO/4-6) (14 Dec. 2011), para. 22; CAT Committee, Concluding observations on the initial report of Timor-Leste (U.N. Doc. CAT/C/TLS/CO/1) (29 Nov. 2017), para. 34.

[545] See CAT, Art. 16; ICCPR, Art. 7; CRC, Arts. 19, 37; CRPD, Art. 15.

[546] CAT Committee, Concluding observations on the third periodic report of the Philippines (U.N. Doc. CAT/C/PHL/CO/3) (2 June 2016), para. 40(b) (urging the state to "[r]eview its legislation in order to allow for legal exceptions to the prohibition of abortions in specific circumstances such as when the pregnancy endangers the life or health of the woman, when it is the result of rape or incest and in cases of foetal impairment…") (emphasis added).

[547] CEDAW Committee, General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19 (U.N. Doc. CEDAW/C/GC/35) (26 July 2017), para. 18.

[548] Human Rights Committee, *Views Adopted by the Committee Under Article 5(4) of the Optional Protocol, Concerning Commc'n No. 1608/*2007, U.N. Doc. CCPR/C/101/D/1608/2007 (Apr. 28, 2011) (*LMR v. Argentina*), para. 9.2. *See also* Human Rights Committee, *General comment 36 (Article 6: Right to Life)*, U.N. Doc. CCPR/C/GC/36 (Sept. 3, 2019), para. 8 ("States parties must provide safe, legal and effective access to abortion where the life *and health* of the pregnant woman or girl is at risk, or *where carrying a pregnancy to term would cause the pregnant woman or girl substantial pain or suffering*, most notably where the pregnancy is the result of rape or incest or where the pregnancy is not viable.") (emphasis added).

[549] See CAT Committee, Concluding observations on the seventh periodic report of Poland (U.N. Doc. CAT/C/POL/CO/7) (29 Aug. 2019), para. 33(d); see also HRC, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (U.N. Doc. A/HRC/31/57) (5 Jan. 2016), para. 44 ("The denial of safe abortions and subjecting women and girls to humiliating and judgmental attitudes in such contexts of extreme vulnerability and where timely health care is essential amount to torture or ill treatment.").

[550] HRC, *Whelan v Ireland* (2017) UN Doc. CCPR/C/11/D/2425/2014); HRC, *Mellet v Ireland*, United Nations (2016) UN Doc. CCPR/C/116/D/2324/2013.

[551] Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, UN Doc. A/HRC/31/57 (2016), para. 42.

[552] Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, UN Doc. A/HRC/31/57 (2016), para. 42.

RIGHT TO FREEDOM FROM DISCRIMINATION

Treaties signed and ratified by the USA expressly prohibit discrimination and require the government to take measures to eradicate all forms of discrimination against individuals, including in the context of abortion. Human rights bodies have confirmed that interfering with pregnant individuals' access to reproductive healthcare violates their right to non-discrimination.[553] The HRC has further confirmed that the right to non-discrimination on the basis of sex and gender obligates States to ensure that laws and policies regulating access to health services "accommodate the fundamental biological differences between men and women in reproduction and do not directly or indirectly discriminate on the basis of sex."[554]

As referenced earlier, failing to provide access to healthcare that only women need amounts to sex-based discrimination.[555] Abortion restrictions can also violate the right to be free from racial discrimination. The CERD Committee has explicitly indicated that restrictions on abortion that disproportionately impact racial and ethnic minorities[556] run afoul of international obligations to eliminate racial discrimination.[557] In its recent periodic review of the USA, the CERD Committee expressed particular concern that "systemic racism, along with intersecting factors such as gender, race, ethnicity and migration status, have a profound impact on access by women and girls to the full range of sexual and reproductive health services … without discrimination," particularly in light of "the limited availability of culturally sensitive and respectful maternal healthcare." [558] The Committee recommended that the US "take all measures necessary…to provide safe, legal and effective access to abortion in accordance with the State party's international human rights obligations."[559]

Abortion restrictions can also violate the right to be free from discrimination based on socio-economic status or age. UN experts have observed that where abortion access is restricted by law and/or unavailable, safe abortion is a "privilege of the rich, while

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[553] Human Rights Committee, *General Comment 28 (Article 3: the Equality of Rights Between Men and Women)*, U.N. Doc. CCPR/C/21/Rev.1/Add.10 (Mar. 29, 2000), para. 20. See also Human Rights Committee, *Whelan v Ireland,* Comm. No. 2425/2014, UN Doc. CCPR/C/119/D/2425/2014 (June 12, 2017), para. 7.12; HRC, *Mellet v Ireland,* Comm. No. 2324/2013, UN Doc. CCPR/C/116/D/2324/2013 (Nov. 17, 2017) para. 7.11.

[554] *Mellet v. Ireland*, para. 7 (Cleveland, S., concurring). *See also Whelan v. Ireland* (Cleveland, S., concurring).

[555] CEDAW Committee, *General Recommendation 24 (Article 12: Women and Health)*, UN Doc. A/54/38/Rev.1 (1999), chap. 1, para. 11; CEDAW Committee, *Views of the Committee under Article 7(3) of the Optional Protocol, Concerning Commc'n No. 17/*2008, U.N. Doc. CEDAW/C/49/D/17/2008 (Sept. 27, 2011) (*Alyne da Silva Pimentel Teixeira v Brazil*); CEDAW Committee, *Summary of the Inquiry concerning the Philippines under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, UN Doc. CEDAW/C/OP.8/PHL/1 (Apr. 22, 2015); CEDAW Committee, *Report of the Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under Article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*, UN Doc. CEDAW/C/OP.8/GBR/1 (Mar. 6, 2018). Transgender and gender-diverse persons need abortions as well, and denying abortions in that case would similarly amount to gender discrimination.

[556] Working Group on the issue of discrimination against women in law and in practice, Women's Autonomy, Equality and Reproductive Health in International Human Rights: Between Recognition, Backlash and Regressive Trends (Oct. 2017), www.ohchr.org/sites/default/files/Documents/Issues/Women/WG/WomensAutonomyEqualityReproductiveHealth.pdf

[557] See ICERD, Arts. 2, 5. See also CERD Committee, Concluding observations on the combined tenth to twelfth reports of the United States of America (U.N. Doc. CERD/C/USA/CO/10-12) (21 Sept. 2022), paras. 35-36.

[558] Committee on the Elimination of Racial Discrimination, *Concluding Observations on the Combined Tenth to Twelfth Reports of the United States of America*, U.N. Doc. CERD/C/USA/CO/10-12 (Sept. 21, 2022), para. 35.

[559] CERD Committee, Concluding observations on the combined tenth to twelfth reports of the United States of America (U.N. Doc. CERD/C/USA/CO/10-12) (21 Sept. 2022), para. 35.

women with limited resources have little choice but to resort to unsafe providers and practices."[560] As abortion restrictions do not decrease abortion rates, but rather simply decrease safe abortions, they have a discriminatory impact on low-income individuals.[561]

With regard to age discrimination, the CRC Committee has highlighted the discrimination faced by youth seeking abortions, asserting that "particular efforts need to be made to overcome barriers of stigma and fear experienced by, for example, adolescent girls, girls with disabilities and lesbian, gay, bisexual, transgender and intersex adolescents, in gaining access to such services."[562] This Committee has urged states to eliminate barriers, such as third-party consent or authorization requirements, that block adolescents and children from accessing abortion care, and recommended that states "decriminalize abortion to ensure that girls have access to safe abortion and post-abortion services, review legislation with a view to guaranteeing the best interests of pregnant adolescents and ensure that their views are always heard and respected in abortion-related decisions."[563]

INDIGENOUS PEOPLES' RIGHTS INCLUDE ABORTION RIGHTS

In addition to the USA's international legal obligations around non-discriminatory access to safe abortion, the government has a particular obligation to ensure that American Indian and Alaska Native (AI/AN) individuals have access to healthcare, including safe abortion care, as well as refraining from interfering with their cultures, traditional practices and right to self-determination.

Historic treaties, the US Constitution and federal law affirm a complex political and legal relationship between federally recognized tribal nations and the USA.[564] While the US federal government's policy toward AI/AN peoples has changed often and dramatically, the US federal government continues to have a trust responsibility for them—a distinct legal

[560] Working Group on the issue of discrimination against women in law and in practice, Women's Autonomy, Equality and Reproductive Health in International Human Rights: Between Recognition, Backlash and Regressive Trends (Oct. 2017), p.2, www.ohchr.org/sites/default/files/Documents/Issues/Women/WG/WomensAutonomyEqualityReproductiveHealth.pdf

[561] Working Group on the issue of discrimination against women in law and in practice, Women's Autonomy, Equality and Reproductive Health in International Human Rights: Between Recognition, Backlash and Regressive Trends (Oct. 2017), p. 2, www.ohchr.org/sites/default/files/Documents/Issues/Women/WG/WomensAutonomyEqualityReproductiveHealth.pdf

[562] CRC Committee, General Comment No. 20 on the implementation of the rights of the child during adolescence (U.N. Doc. CRC/C/GC/20) (6 Dec. 2016), para. 60.

[563] CRC Committee, General Comment No. 20 on the implementation of the rights of the child during adolescence (U.N. Doc. CRC/C/GC/20) (6 Dec. 2016), paras. 60-61. (finding that adolescent girls should have access to information about sexual and reproductive health along with access to adequate health services). See also CRC Committee, General Comment No.4: Adolescent health and development in the context of the Convention on the Rights of the Child (U.N. Doc. CRC/GC/2003/4) (1 July 2003), para. 13.

[564] Amnesty International, *The Never-ending Maze: Continued Failure to Protect Indigenous Women from Sexual Violence in the USA* (Index: AMR 51/5484/2022), www.amnestyusa.org/wpcontent/uploads/2022/05/AmnestyMazeReportv_digital.pdf

obligation to ensure the protection of their human rights and well-being.[565] While all federal agencies are required to fulfill this trust responsibility, the federal government fails to do so as tribes continue to have limited tribal criminal jurisdiction and tribal law enforcement agencies, healthcare systems and justice systems remain chronically underfunded.[566] In fact, AI/AN women in the USA suffer maternal mortality and 1.2 times the rate of non-Hispanic white women,[567] the highest rate of violent victimization, and the "least access to emergency contraception and abortion services due in part to complicated laws involving jurisdiction, and the remote nature of many Indian reservations."[568]

In addition to the USA's federal trust obligations toward AI/AN individuals, international human rights law reinforces these obligations. For example, the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) specifically recognizes the rights of Indigenous peoples to "to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, where they exist, juridical systems or customs, in accordance with international human rights standards."[569] With regard to abortion, the CEDAW Committee has recognized that "Indigenous women and girls have limited access to adequate health-care services, including sexual and reproductive health services and information, and face racial and gender-based discrimination in health systems", and called on States to guarantee that Indigenous women and girls "receive prompt, comprehensive and accurate information, in accessible formats, on sexual and reproductive health services and affordable access to such services, including safe abortion services and modern forms of contraception."[570]

At present, the US government is failing AI/AN women, who have effectively been living under a total abortion ban since the adoption of the Federal Hyde Amendment in 1976 that prohibits nearly all abortions at Indian Health Service (HIS) clinics.[571] While not originally directed at AI/AN individuals, these communities are among those most affected because of their unique relationship with the federal government and their reliance on the federally

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[565] This federal trust responsibility is set out in treaties between tribal nations and the federal government, further solidified in federal law, federal court decisions and policy, and it includes the protection of the sovereignty of each tribal government. See Indian Tribal Justice Support Act 25 U.S.C.A. §3601(2) (1994).

[566] In its 2018 report, the US Commission on Civil Rights found federal funding for tribal programs to be "grossly inadequate to meet the most basic needs the federal government is obligated to provide." The Commission also noted that tribal program budgets remain a "barely perceptible and decreasing percentage of agency budgets." US Commission on Civil Rights, Broken Promises: Continuing Federal Funding Shortfall for Native Americans, December 2018, usccr.gov/pubs/2018/12-20-Broken-Promises.pdf

[567] Rutman S, Taualii M, Ned D, Tetrick C, "Reproductive health and sexual violence among urban American Indian and Alaska Native young women: select findings from the National Survey of Family Growth," Matern Child Health J. 2012 Dec;16 Suppl 2:347-52.

[568] Lauren van Schilfgaarde, "Native Reproductive Justice: Practices and Policies from Relinquishment to Family Preservation," May 11, 2022, https:/blog.petrieflom.law.harvard.edu/2022/05/12/native-reproductive-justice-adoption-relinquishment-family-preservation/

[569] See UN Declaration on the Rights of Indigenous Peoples, UN Doc. A/RES/61/295, 2007, Art. 34 https://www.ohchr.org/en/indigenous-peoples/un-declaration-rights-indigenous-peoples. The International Labour Organization (ILO) Convention 169 also calls for the recognition and maintenance of tribal justice systems "where these are not incompatible with fundamental rights defined by the national legal system and with internationally recognized human rights."

[570] CEDAW, General recommendation No.39 (2022) on the rights of Indigenous women and girls, UN Doc. CEDAW/C/GC/39, paras. 51, 52 (b).

[571] The Hyde Amendment banned the use of federal funds for abortion except to save the life of the pregnant woman. Later exceptions were added to the law to permit abortions in cases of rape and incest.

subsidized IHS. Since IHS is often the sole provider of reproductive health services for AI/AN communities, such restrictive Federal policies effectively deny AI/AN women reproductive justice by severely limiting access to abortions.[572]

[572] Autumn Asher BlackDeer, 'Towards an Indigenous Reproductive Justice: Examining Attitudes on Abortion among American Indian and Alaska Native Communities,' NORC: Research Highlights, May 2023, httwww.norc.org/content/dam/norc-org/pdfs/NORC%20Research%20Brief_AABreprojustice_FINAL.

ANNEX 2: STATE HEALTH AGENCY SURVEY RESPONSE

Amnesty International sent surveys to each state's Department of Public Health (or equivalent agency) for the purposes of this report. The following are the survey responses of the eight agencies that participated in Amnesty International's survey. Their full responses are provided as they were received except for the redaction of the names and contact information of the individual who responded on behalf of the state agency. The responses were also formatted to fit the page. To view the full response, see below:

- Hawaii Department of Health
- Illinois Department of Public Health
- Massachusetts Department of Public Health
- North Carolina Department of Health and Human Services
- Pennsylvania Department of Health
- South Carolina Department of Public Health
- Vermont Department of Health
- District of Columbia Department of Health

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ABORTION IN THE USA

THE HUMAN RIGHTS CRISIS IN THE AFTERMATH OF DOBBS

For almost 50 years, the United States Supreme Court repeatedly affirmed that the US Constitution protects the right to abortion. However, on 24 June 2022, in *Dobbs v. Jackson Women's Health Organization*, the Supreme Court ruled that there is no federal constitutional right to abortion, leaving the question of whether and how to regulate abortion to individual states.

The *Dobbs* decision has resulted in a patchwork of devastating laws, with abortions now totally or near totally banned in 21 states across the country. This means women, girls, and others who can get pregnant are blocked from accessing abortion care.

Amnesty International conducted research throughout 2023 and 2024 to document the impact of these bans and restrictions on the human rights of people across the United States. This report, *Abortion in the USA: The Human Rights Crisis in the Aftermath of Dobbs*, details the devastating impact of these bans and restrictions to abortion.

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