



Post-Dobbs, the U.S. Is Out of Step With Liberalizing Abortion Laws Around the World

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On June 24, 2022, the U.S. Supreme Court upended nearly 50 years of precedent that ended the constitutional right to an abortion. *Dobbs v. Jackson Women’s Health Organization* overturned *Roe v. Wade*, the 1973 Supreme Court case that constitutionally protected the ability to decide whether to continue a pregnancy prior to viability.¹ The *Dobbs* case has far-reaching impacts on many populations in the U.S., but Black and Indigenous people, immigrants, the LGBTQI+ community, people with low incomes, young people, and people with disabilities will disproportionately experience restrictions to sexual and reproductive health (SRH) care.^{2,3}

The *Dobbs* decision will also impact global human rights, gender equality, and marginalized communities worldwide. While the U.S. is going back on decades of progress towards sexual and reproductive health and rights for all, the expansion of abortion access and liberalization of abortion laws has remained the overall global trend.⁴ Ultimately, with the overturning of *Roe v. Wade*, the U.S. centers itself among countries that are de-prioritizing gender equity, increasing the stigmatization and criminalization of healthcare services, and preventing the realization of the right to bodily autonomy.

Reproductive Rights are Human Rights

Reproductive rights, essential to attaining reproductive health, encompass multiple rights. These include but are not limited to: the right to bodily autonomy and privacy; to decide whether, when, and by what means to have children; and to access the information, resources, services, and support necessary to achieve these rights, without fear of discrimination, coercion, exploitation and violence.^{5,6}

In 1994 in Cairo, Egypt, the International Conference on Population and Development (ICPD) explicitly

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acknowledged the value and importance of reproductive rights to individual well-being and to the achievement of development goals.^{7,8} The ICPD acknowledgement was rooted in instruments of human rights law, including the 1979 Convention on the Elimination of All Forms of Discrimination Against Women and the 1989 Convention on the Rights of the Child.⁹ Since the ICPD gathering in 1994, global sexual and reproductive health and reproductive rights have been established and maintained in the United Nation’s Sustainable Development Goals (SDGs), created in part to achieve gender equality and empower all women and girls.¹⁰

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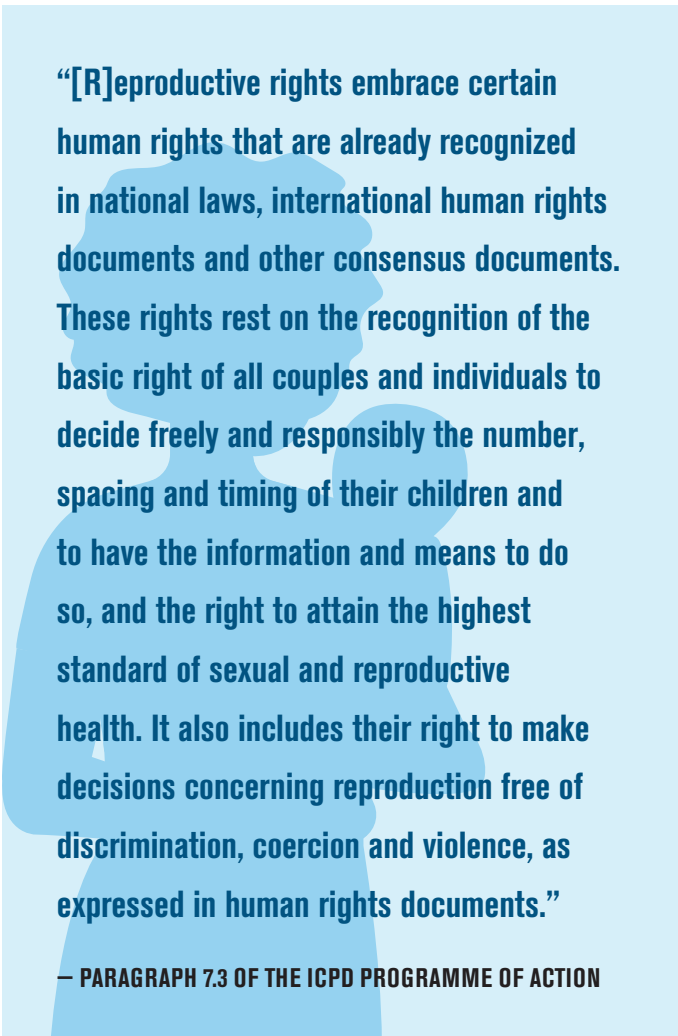
Approximately 180 countries, including the United States, joined to support an international agenda that recognized reproductive rights as human rights, placing the rights, needs, and wellbeing of women and girls at the core of global development and human rights discussions.

Comprehensive reproductive health care—including abortion—is an important foundation, especially for women and girls, transgender and gender nonbinary individuals, and other marginalized communities in achieving goals in education, economic empowerment, and political involvement.^{11,12} The advancement of gender empowerment and equality in the U.S. and beyond therefore requires the support and protection of reproductive health and rights.

Dobbs* and the Overturning of *Roe v. Wade

Roe v. Wade, the renowned Supreme Court decision of 1973, upheld a person’s ability to have an abortion up to the point of viability, or the moment a fetus can survive outside of the womb.¹³ *Dobbs v. Jackson Women’s Health Organization*, the 2022 Supreme Court case filed on behalf of the last remaining abortion provider in Mississippi, featured many of the core holdings of *Roe*. The case sought to block a state ban on abortion past 15 weeks of pregnancy—a time well before viability, which usually occurs between 23 and 28 weeks after conception.¹⁴ Six of nine Supreme Court justices voted not only to uphold Mississippi’s abortion ban, but to completely overturn *Roe*, using the legal argument that the core holdings of *Roe* could not be found in the constitution. Ultimately, this decision sanctioned individual states to dictate the legality and accessibility of abortion, carving out large swaths of the U.S. in which abortion is inaccessible.¹⁵

The ability to exercise one’s own bodily autonomy, plan and space one’s family, and access basic health care counseling and services was a precarious reality for many in the U.S., even with *Roe v. Wade* in place. Many of the communities disproportionately burdened by the *Dobbs* decision already live in states that greatly restrict sexual and reproductive health care, including abortion, birth control counseling and services, and sex education. In addition, 25 million women and an uncounted number of transgender and nonbinary people currently live in the 25 states that have passed abortion bans or severe abortion restrictions into law.¹⁶



“[R]eproductive rights embrace certain human rights that are already recognized in national laws, international human rights documents and other consensus documents. These rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. It also includes their right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents.”

— PARAGRAPH 7.3 OF THE ICPD PROGRAMME OF ACTION

Allowing each state to draw the boundaries of abortion accessibility and legality means that millions of people must now travel out of state to access basic reproductive health care. For those living in states that have banned or severely restricted abortion—which largely dominate the U.S. South and Midwest—the average driving distance for an abortion has skyrocketed. In Texas, for example, the average one-way driving distance for a woman of reproductive age to the nearest clinic that performs an abortion before 15 weeks is 515 miles; that distance increases as weeks pass in pregnancy.¹⁷

With the overturning of *Roe*—and the subsequent ability for states to ban or restrict abortion at will—the U.S. has strayed from the path of human rights, gender equality, and protection of marginalized communities. While the reach of the Supreme Court ruling has the ability to extend across the U.S., it may also have dire consequences for global human rights, gender equality, and the safeguarding of marginalized communities worldwide.

Spotlighting Countries Protecting Sexual and Reproductive Health

Despite multiple instruments of human rights law affirming reproductive rights, countless individuals around the world cannot fully realize their health and rights due to unnecessary barriers to safe abortion care (including criminalization, gestational age bans, insurance coverage bans, method restrictions, medically unnecessary requirements, and religious refusals). These barriers interfere with bodily autonomy and often force individuals to seek clandestine methods of abortion care.¹⁸ In an effort to combat these barriers and restore equality, nearly 59 countries have liberalized their abortion laws—either incrementally or completely—since 1990.¹⁹



Demanding abortion reform in some of the countries with the strictest abortion laws in the world were the Green Wave activists, who donned green handkerchiefs and took to the streets of South and Central America. In 2020, the movement successfully inspired lawmakers in **Argentina** to decriminalize abortion and legalize care up to 14 weeks of pregnancy.^{20,21} Green Wave activists continued to call for reform across the region, leading to Mexico ruling their previous restrictive abortion laws unconstitutional in 2021. This allowed for care in some jurisdictions up to 12 weeks of pregnancy.²²



In 2022, **Colombia** similarly ruled their previous and restrictive abortion laws unconstitutional and allowed care up to 24 weeks of pregnancy.²³ As the result of more than three decades of advocacy, the Green Wave movement secured liberalized abortion laws across multiple South and Central American countries and continues to shape global abortion activism.



In September 2023, **Mexico's** Supreme Court removed abortion from the federal penal code and completely decriminalized the procedure. Mexico's constitution now explicitly protects the right to reproductive autonomy, outlining that creating barriers to abortion care infringes upon that right.²⁴ The ruling obligates federal health centers throughout the country to provide an abortion to anyone who requests one.²⁵ This progress, which will have cascading effects across Mexico and is yet another addition to Latin America's ever-expanding Green Wave movement, is the result of years of strategic work from feminist organizations.²⁶



Briefly before Green Wave activists made tremendous waves in Latin America, major gains for abortion rights were won in Europe. In 1983, an amendment to **Ireland's** constitution recognized the "right to life of the unborn," and became one of the strictest abortion bans in Europe.^{27,28} For 35 years, many in the country were unable to access an abortion and were forced

to travel outside of Ireland for care.^{29,30} In 2012, the Eighth Amendment prevented 31-year-old Savita Halappanavar from accessing a life-saving abortion, leading to her preventable death in a hospital in Galway.³¹ After Savita's death, a wave of activism for repeal of the amendment grew significantly. In a 2018 national referendum, the Irish public voted overwhelmingly to repeal the Eighth Amendment. The vote legalized abortion up to 12 weeks of pregnancy.



In 2019, **South Korea's** Constitutional Court ruled that the country's previous criminalization of abortion was unconstitutional, ordering the country's legislature to revise the laws by the end of 2020.³² On the first day of 2021, abortion was officially decriminalized and made accessible up to 22 weeks of pregnancy. Since 1953, abortion had been illegal in South Korea and included prison sentences and fines for both pregnant people and healthcare workers.³³ This change, which upended 66 years of abortion criminalization, was ushered in by years of coalition work spearheaded by feminist scholars, medical and legal professionals, and health and rights activists.



Only one year before South Korea's ruling went into effect, **New Zealand's** parliament made changes to the country's Crimes Act. The original act criminalized abortion in the majority of cases and required the approval of two doctors in the event of "serious danger" to a pregnant person's health.³⁴ After the modernization of the 1977 law, abortion has become allowable up to 20 weeks of pregnancy, and accessible after 20 weeks of pregnancy if determined "clinically appropriate in the circumstances" by a healthcare provider.³⁵ This 2020 law aims to reduce multiple barriers to care—including time delays and stigma.

Argentina, Mexico, Colombia, the Republic of Ireland, South Korea, and New Zealand have successfully employed decriminalization and legalization, the expansion of gestational limits, and the easing of restrictions, resulting in liberalized laws and the progression of abortion rights. While there is still progress to be made on the removal of severe limitations and criminal penalties around the world, these countries offer a promising glimpse of a future in which abortion rights are uplifted and protected.

How the *Dobbs* Decision Puts the U.S. In Step With Countries Attacking Sexual and Reproductive Health

Despite momentous global progress made on sexual and reproductive health and rights, a handful of countries have regressed on abortion laws in recent years. While states have a legal responsibility to protect and uphold human rights, many have, throughout history, restricted sexual and reproductive health and rights in an effort to stymie bodily autonomy and control communities.³⁶ The restriction of women's health and rights, reproductive health and rights, and LGBTQI+ health and rights is recognized as a hallmark of authoritarian regimes, and the flurry of recent abortion bans and restrictions in the U.S.—as well as policies that affect people's bodily autonomy—places the U.S. in company with authoritarian regimes that have done the same, such as Saudi Arabia and Iran.^{37,38,39,40,41} Below are additional countries that have backslid on sexual and reproductive health and rights:



Abortion in **El Salvador** is banned in all circumstances, making the law one of the strictest in the world. The procedure is altogether criminalized, even in cases of rape, incest, or to save the life of the pregnant person.⁴² Those who have an abortion face a two to eight-year prison sentence. Many who experience stillbirths or miscarriages face an extreme risk of criminalization and can be charged with “aggravated homicide,” which is punishable by up to 30 years in prison. In the past two decades, El Salvador has prosecuted at least 181 women for obstetric emergencies and imprisoned at least 65.⁴³



In 2006, **Nicaragua** passed a total abortion ban. The passage removed access to already-limited options for abortion. The passage also determined, under the country's criminal code, that those who terminate pregnancies face sentences of up to two years in prison, with medical professionals facing sentences of up to six years in prison for administering care.⁴⁴ Since the 2006 passage, multiple claims of unconstitutionality have been brought against Nicaragua in an effort to challenge the ban. With the ban on abortion in place for years, rates of unwanted and forced pregnancy, child and adolescent pregnancy, and criminalization are a significant concern.^{45,46} Those who experience pregnancy due to sexual violence, those who provide abortion, and anyone who assists someone in accessing an abortion face severe stigma and fear of carceral punishment.



Nearby **Honduras** enshrined a total abortion ban into the country's constitution in 2021. The amendment stipulates that any changes to the constitution's Article 67, which prohibits “interruption of life” to a fetus, requires the approval of three quarters of Honduras' Congress.^{47,48} This majority requirement is more than the necessary two-

thirds majority originally outlined in the constitution, and makes it particularly difficult to make any changes to the constitution's amendment that bans abortion. According to the UN Sustainable Development Group, physical and sexual violence against women and girls in Honduras was already high, with rates rising even more during the COVID-19 pandemic.⁴⁹ Honduras' rate of adolescent pregnancy is more than twice the global average.⁵⁰ For those facing violence and seeking an abortion, this ban makes access to care particularly difficult to achieve.



The same year that Honduras enshrined an abortion ban into the country's constitution, **Poland** passed one of the strictest abortion laws in Europe. The law, which ruled abortion in cases of “fetal impairment” unconstitutional, also ruled that those who provide abortion “without sufficient justification” may face up to three years in prison.^{51,52} In the years prior, abortion was largely only accessible in the country in exceptionally rare cases, with many seeking care in other European countries. This 2021 ruling made abortion near-inaccessible, silenced medical professionals, and criminalized a form of basic healthcare.⁵³

Authoritarian trends of surveillance and criminalization of LGBTQI+ individuals, the outlawing of extramarital relationships, the enforcement of strict dress codes, and the curbing of access to safety, education, healthcare, and economic opportunity stifle human rights and gender equality.⁵⁴ With the overturning of *Roe* and the erasure of the constitutionally protected right to abortion, U.S. states will continue to ban and restrict access to sexual and reproductive health, impose insurmountable hurdles to care, and place the increasing risk of legal response on the shoulders of individual patients and medical providers. The U.S. has adopted a precarious global position, falling in step with those that rely on policy and law to control the health, wellbeing, and progress of those who are already the most marginalized.

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Dobbs’ Impact Abroad

While the *Dobbs* decision does not translate to direct political impact abroad, the consequences of *Roe*’s overturning have the power to reverberate around the world. Through the Supreme Court ruling, the U.S. sends a message that legitimizes the restriction of sexual and reproductive rights.

Preliminary research shows that the *Dobbs* ruling not only impacts legislation and laws globally, but cultural narratives and norms and the strength of movements, as well. While the *Dobbs* ruling has already been cited in arguments against safe abortion guidelines in Nigeria and same-sex marriage in India, anti-abortion groups have also utilized *Roe*’s overturning as an opportunity to undermine Kenya’s constitutional right to abortion.⁵⁵ Anti-abortion policymakers may feel empowered by the message of *Roe*’s overturning, with many having already spoken out in favor of the Supreme Court’s decision.⁵⁶ The anti-rights movement in general has already begun using the *Dobbs* decision to bolster their work, with organizations and actors in Colombia and India continuing to develop and spread anti-abortion and anti-LGBTQI+ misinformation.⁵⁷

The U.S. has foreign policies in place, some that change with each administration, which create confusion through funding restrictions⁵⁸ and a general chilling effect⁵⁹ on the provision of abortion care abroad. Out of fear of losing

funds, clinics or organizations may choose to restrict care or censor advocacy in a way that results in overcompliance. The *Dobbs* decision adds to that uncertainty, strengthening the chilling effect and hindering human rights and gender equality progress.⁶⁰

As established by the 1994 ICPD, reproductive health and rights are an essential component of achieving global gender equity and empowerment. Expanding access to healthcare—and therefore protecting the right of individuals to make their own decisions and shape their own lives—is central to the ability to live freely and healthily. While much of the world continues to support worldwide gender equity and human rights through the liberalization of abortion laws, the United States is trending toward the regression of gender equity and human rights.

Already, the U.S. employs harmful foreign policies that interfere with abortion care and interrupt global progress on gender equity, risking the health and lives of people around the world. *Dobbs* indeed has the ability to embolden abortion opposition efforts, but largely, it further ostracizes the U.S., validating the country as a global outlier of a growing trend towards liberalizing abortion access.⁶¹ The overturning of *Roe* not only increases barriers to care for patients in the U.S., but simultaneously sends a disquieting message around the world—one that asserts that the human right to abortion is dispensable.

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