



HRN condemns United States Supreme Court’s Overturning of *Roe v. Wade*

Human Rights Now (HRN), a Tokyo-based international human rights NGO, denounces the overturning of *Roe v. Wade*, a landmark 1973 ruling that constitutionally protected the right to have an abortion as an application of the right to privacy, by the United States Supreme Court in *Dobbs v. Jackson* on 24 June 2022.¹ Removing the constitutional right to have an abortion and returning power back to states to individually determine the legality of abortion is expected to lead to bans on abortion in about half of US states.² HRN condemns the overturning of *Roe v. Wade* as a direct attack on the lives and reproductive health of women and people with uteruses, constituting a violation of their human rights to privacy, autonomy, fundamental liberty, and self-determination, and recognizes the Supreme Court decision as inconsistent with the US’s international obligations according to the authoritative conclusions of relevant UN human rights experts as described below.

Overturning *Roe v. Wade* Endangers the Lives of Women & People with Uteruses

The United States currently holds the highest maternal mortality rate of any developed country, with an estimated 24 Americans dying from pregnancy or childbirth-related causes for every 100,000 births in 2020.³ A nationwide ban on abortion in the United States is expected to result in a 21% increase in maternal mortality across demographics and a 33% increase in mortality for People of Color.⁴ An international research study from the Guttmacher Institute, a reproductive rights NGO, further reveals that abortion rates are roughly the same in countries where abortion is broadly legal and in countries where it is not,⁵ demonstrating that abortion bans will not prevent abortions but will prevent people with uteruses from accessing safe, regulated abortions. HRN recognizes that overturning *Roe v. Wade* and stripping constitutional protections for abortion rights will force women and people with uteruses in states where abortion is largely or completely banned to rely on unsafe, unsupervised abortion, leading to higher rates of maternal and infant mortality and disproportionately harming low-income, Black, and Hispanic women.

Overturning *Roe v. Wade* Restricts Women & People with Uteruses’ Human Rights

Over 25 years ago, the United States and 178 other countries committed to protecting women’s reproductive health and family planning, including by removing barriers that inhibit to access to family planning services, meeting 100% of contraceptive needs, and reducing maternal mortality, under the Cairo Declaration on Population and Development made during the 1994 Conference on Population and Development.⁶ In the years since then, the international community has developed a substantial body of international human rights law, norms, and standards on sexual and reproductive health and rights (SHRH) that make clear that women’s rights include access to adequate reproductive health services.⁷ Specifically, it has recognized that access to safe abortions and eliminating the need for unsafe abortions through measures such as decriminalizing the procedure are integral to individuals’ bodily integrity and reproductive rights.⁸

Given these rights, the United Nations Office of the High Commissioner for Human Rights (OHCHR) released an official joint web statement by authoritative UN human rights experts denouncing the decision of the Supreme Court to strike down *Roe v. Wade* and citing the violations of human rights that women and people with uteruses will face as a result of the decision.⁹ HRN stands behind OHCHR’s position that, “Legal protections for abortion access and abortion rights have been established under international law as a matter of ensuring women’s ability to enjoy their legally protected human rights to life, health, equality and non-discrimination, privacy, freedom from torture, cruel, inhuman, and degrading treatment and to ensure their freedom from gender-based violence,” and we similarly regard the overturning of *Roe*

v. Wade as inconsistent with the US's international human rights obligations.¹⁰ We particularly want to highlight the fact that the UN experts reminded the US of its binding legal obligations to the International Covenant on Civil and Political Rights, which protects people with uterus' right to life from the deadly impact of abortion restrictions, in a detailed amicus brief they submitted to the Court for the *Dobbs* case.¹¹

The UN Human Rights Committee has also described the decriminalization and availability of abortions, whenever women might turn to unsafe procedures but especially in cases of rape and incest, as critical to human rights, and it has observed that "outlawing women's access to abortion services can cause severe suffering and undermines their personal integrity and autonomy, which results in acute violations of their human rights."¹² HRN recognizes that the right of women and people with uteruses to make autonomous decisions regarding their own bodies and reproductive functions is at the core of the fundamental right to privacy concerning intimate matters, protected under the US Constitution's 14th Amendment and the US's international human rights obligations. Such a fundamental right and international human rights obligation cannot be subject to being stripped away by majority decision.

Other Autonomy and Privacy-Related Rights in the US Are Now Also at Risk of Being Overturned

An additional major concern with the ruling is that the majority opinion threatens the basis for almost all "substantive due process" protections under the 5th and 14th Amendments to the U.S. Constitution, which protect many autonomy and privacy-related fundamental rights in the US. Justice Clarence Thomas, who has advocated consistently for revoking LGBTQ and reproductive rights, wrote a separate concurring opinion, in which he made a "wish list" of additional hard-fought protections he wishes the Court to also overturn based on the same reasoning that overturned *Roe*, including guarantees of access to contraception, marriage equality for same-sex partners, protection from anti-sodomy laws, and other LGBTQ rights.¹³ With *Roe* now overturned, all unremunerated rights protected under the 5th and 14th Amendments are now vulnerable to revocation by judicial review, and federal legislation should be passed to protect these rights. The Biden administration and Congress should also consider effective measures to prevent the Supreme Court from becoming a political body that routinely ignores the US's international obligations and violates fundamental rights in its rulings. For example, currently the Supreme Court justices are the only judges in US federal courts not bound by a code of ethics, making them effectively unaccountable for misconduct or corruption.¹⁴ First, however, it is imperative that decisive action be taken in response to the decision to overturn *Roe v. Wade* to draw a line and send a clear message that the Court cannot renounce fundamental rights, before the line is pushed even further.

Call for the US to Codify the Right to Have an Abortion and for the Biden Administration to Take Immediate Action

HRN calls for the United States government to codify the right to have an abortion into law to ensure the availability and accessibility of the procedure to all Americans. Though a Bill that intended to codify abortion rights passed in the House in fall of 2021, it failed to clear the Senate in spring of 2022,¹⁵ leaving the right to abortion in the US fully dependent upon the *Roe v. Wade* precedent. Biden has taken positive steps forward by supporting the end of the filibuster blocking abortion-related legislation and by signing an Executive Order to safeguard access to reproductive health care services, including abortion and contraception, as well as to protect patient privacy and security and coordinate further federal efforts.¹⁶

HRN calls for the Biden Administration to remain steadfast in its position that abortion is a constitutional right and for it and the US government to ensure the Executive Order is immediately and effectively implemented to protect access to abortion in the US and mitigate the negative short and long-term consequences of the Supreme Court's decision. This sentiment is shared by 34 US senators, all of whom signed a letter calling on President Biden to "take immediate action" by using the full force of the federal government "to help women access abortions and other reproductive health care, and to protect those who

will face the harshest burdens from this devastating and extreme decision.”¹⁷ We also call on the administration and government to facilitate the codification of the right to abortion as quickly as possible.

HRN reminds the international community and the United States that with each passing day, as long as these calls are not fulfilled, the United States government violates its people’s rights to bodily integrity, reproductive healthcare access, and freedom from unnecessary maternal mortality. Action must be taken now to protect the lives and human rights of women and people with uteruses in the United States.

¹ Lawrence Hurley and Andrew Chung, “U.S. Supreme Court overturns Roe v. Wade, ends constitutional right to abortion,” Reuters, 27 June 2022, <https://www.reuters.com/world/us/us-supreme-court-overturns-abortion-rights-landmark-2022-06-24/>

² Caroline Kitchener, Kevin Schaul, N. Kirkpatrick, Daniela Santamarina, and Lauren Tierney, “Abortion is now banned in these states. See where laws have changed,” Washington Post, 1 July 2022 <https://www.washingtonpost.com/politics/2022/06/24/abortion-state-laws-criminalization-roe/>

³ Roosa Tikkanen, Munira Z. Gunja, Milly FitsGerald, and Laurie Zephyrin, “Maternal Mortality and Maternal Care in the United States Compared to 10 Other Developed Countries,” The Commonwealth Fund, 18 November 2020, <https://www.commonwealthfund.org/publications/issue-briefs/2020/nov/maternal-mortality-maternity-care-us-compared-10-countries>

⁴ Amanda Jean Stevenson, “The Pregarancy-Related Mortality Impact of a Total Abortion Ban in the United States: A Research Note on Increased Deaths Due to Remaining Pregnant,” Duke University Press, 1 December 2021, <https://read.dukeupress.edu/demography/article/58/6/2019/265968/The-Pregnancy-Related-Mortality-Impact-of-a-Total>

⁵ Jonathan Bearak, Anna Popinchalk, Bela Ganatra, Ann-Beth Moller, Ozge Tuncalp, Cynthia Beavin, Lorraine Kwok, and Leontine Alkema, “Unintended pregnancy and abortion, by income, region, and the legal status of abortion: estimates from a comprehensive model for 1990-2019,” Guttmacher Institute, 21 July 2020, <https://www.guttmacher.org/article/2020/07/unintended-pregnancy-and-abortion-income-region-and-legal-status-abortion-estimates>

⁶ ICPD, Cairo Declaration on Population & Development, 1994, <https://www.unfpa.org/resources/cairo-declaration-population-development>

⁷ OHCHR, “Sexual and reproductive health and rights“, <https://www.ohchr.org/en/node/3447/sexual-and-reproductive-health-and-rights>

⁸ Gretchen Luchsinger, “No Exceptions, No Exclusions: Realizing Sexual and Reproductive Health, Rights and Justice for All”, High Level Commission on the Nairobi Summit on ICPD25 Follow-up, November 2021, https://www.nairobisummitcpd.org/sites/default/files/NairobiHLC-ENGLISH_0.pdf

⁹ “Joint web statement by UN Human rights experts on Supreme Court decision to strike down Roe v. Wade,” United Nations Office of the High Commissioner for Human Rights, 24 June 2022, <https://www.ohchr.org/en/statements/2022/06/joint-web-statement-un-human-rights-experts-supreme-court-decision-strike-down>

¹⁰ *Id.*

¹¹ “Brief of United Nations Mandate Holders as *Amici Curiae* in Support of Repondents,” in the Supreme Court of the United States in Thomas E. Dobbs v. Jackson Women’s Health Organization, 20 September 2021, https://www.supremecourt.gov/DocketPDF/19/19-1392/193045/20210920163400578_19-1392%20Obsac%20United%20Nations%20Mandate%20Holders.pdf

¹² “General Comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life,” Human Rights Committee, 30 October 2018, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf

¹³ Aaron Blake, “Clarence Thomas undercuts justices’ assurances about post-Roe rulings”, Washington Post, 24 June 2022, <https://www.washingtonpost.com/politics/2022/06/24/thomas-opinion-post-roe/> (Justice Thomas: “In future cases, we should reconsider all of this Court’s substantive due process precedents, including *Griswold*, *Lawrence*, and *Obergefell*.”).

¹⁴ Tami Abdollah, “Supreme Court justices don’t have a code of ethics. Hundreds of judges say that’s a problem”, USA Today, 22 June 2022, <https://www.usatoday.com/story/news/nation/2022/06/22/supreme-court-justices-should-bound-ethics-code-us-judges-say/7663260001/?gnt-cfr=1>

¹⁵ Annie Karni, "Bill to Guarantee Abortion Rights Fails in Senate, 11 May 2022, <https://www.nytimes.com/2022/05/11/us/abortion-bill-blocked-senate.html>

¹⁶ The White House, "FACT SHEET: President Biden to Sign Executive Order Protecting Access to Reproductive Health Care Services", 8 July 2022, <https://www.whitehouse.gov/briefing-room/statements-releases/2022/07/08/fact-sheet-president-biden-to-sign-executive-order-protecting-access-to-reproductive-health-care-services/>; Michael D. Shear and Jim Tankersley, "Biden, Chiding Court, Endorses Ending Filibuster to Codify Abortion Rights," 30 June 2022, <https://www.nytimes.com/2022/06/30/world/europe/biden-nato-jan-6.html>

¹⁷ "Dobbs decision letter to the Honorable Joseph R. Biden from 34 US Senators", 25 June 2022, https://www.help.senate.gov/imo/media/doc/Dobbs%20Decision%20Biden%20Letter_FINAL1.pdf