

Abortion and Autonomy: The Struggle for Reproductive Rights in the United States and India

January 28, 2026

Overview of The Dobbs Verdict

In June 2022, the Supreme Court of the United States in *Dobbs v. Jackson Women's Health Organization* (2022), which overturned *Roe v. Wade* (1973) ruled that the Constitution of the United States does not recognize the right to abortion, reversing nearly 50 years of protection of women's access to safe and legal abortion. The decision further empowered states to frame their laws. Nearly 29% of women in the United States who are of reproductive age live in states where abortion is heavily restricted. According to the 2025 Guttmacher Institute fact sheet, as of March 2024, none of the 14 states with complete abortion bans had any abortion clinics, which earlier had a total of 63 clinics providing such health facilities.

Human Cost of Restricted Abortion Access

Anti-abortion legislation in the United States severely impacts women's health, creating significant risks. Abortion bans impact other essential reproductive healthcare services, such as contraception and prenatal care, as clinics struggle financially when abortion services are banned and may need to relocate to states where abortion remains legal. After the Dobbs decision, a recent study of 2024 found that United States infant mortality rates rose by 7%, with a 10% increase in deaths among babies with congenital anomalies. The researchers noted that restricting access to healthcare, such as abortion, can cause broader impacts on public health.

Erosion of Privacy and Freedom

The proliferation of abortion bans in the United States undermines reproductive autonomy as well as the right to privacy. Digital surveillance has reportedly been used to access and share private information, particularly of those seeking or providing abortion care, including search histories and menstrual cycle or fertility apps. Looking at the status of Abortion Litigation in United States Courts, as of April 2025, Iowa, Oklahoma, Florida, and Idaho imposed a complete ban on Abortion practices post-litigation. This makes more than 10 states currently experiencing the ban in effect to date, highlighting legal battles over reproductive rights.

Dobb's decision: The Dissenting Voices

In their joint dissent, Justices Breyer, Justice Kagan, and Justice Sotomayor condemned the overturning of Roe v. Wade and Planned Parenthood v. Casey, arguing it stripped women of their right to make decisions about their bodies. They warned it threatens equality, endangers rights like contraception and same-sex marriage, and reflects political motives over evolving understanding of the United States Constitution.

Violation of International Human Rights Law

International human rights law provides unequivocal guidance that access to safe and legal abortion is a core component of women's rights to health and bodily autonomy. As a State Party to the International Covenant on Civil and Political Rights (ICCPR), the United States is obligated to respect and ensure the rights to life (Article 6), privacy (Article 17) and non-discrimination (Articles 2 and 26). While the ICCPR is not self-executing under U.S. domestic law, it remains binding under international law and applies to both federal and state authorities.

The United Nations Human Rights Committee has clarified that although States may regulate abortion, such regulation must not result in violations of a pregnant person's right to life or other Covenant rights. In *Mellet v. Ireland* (2016), for example, the United Nations Human Rights Committee highlighted the serious physical and psychological harm caused by denying abortions. It ruled that Ireland's ban breached women's right to privacy, equality and freedom. In its General Comment No. 36 on the right to life, the Committee further affirmed that States must not adopt measures that compel women to resort to unsafe abortions, as such restrictions directly endanger life. It urged States to remove legal and practical barriers to abortion, particularly in cases involving threats to life and health, noting that criminalisation also disproportionately affects marginalised groups.

Human rights bodies have repeatedly called for the decriminalisation of abortion. The Committee on the Elimination of Discrimination Against Women (CEDAW) has stated that refusing to provide reproductive health services that only women require legally is inherently discriminatory and may amount to gender-based violence. Similarly, the Committee on Economic, Social and Cultural Rights has affirmed that preventing unsafe abortion is a core obligation under the right to sexual and reproductive health.

Global consensus reinforces these principles. The International Conference on Population and Development (1994) and the Beijing Platform for Action (1995) recognised unsafe abortion as a major public health concern and affirmed that, where lawful, abortion must be safe and accessible. Post Dobbs decision, the United States joins a regressive group of countries, including Nicaragua and El Salvador, that have reversed their countries' progress in abortion laws. In contrast, countries like Romania and Bangladesh have amended their abortion laws to improve access to maternal health and abortion care facilities, which has resulted in a significant drop in maternal deaths.

India's Abortion Landscape: Progress and Challenges

Until the 1960s, abortion was criminalised under Section 312 of the Indian Penal Code, 1860. Following recommendations by the Shantilal Shah Committee, the Medical Termination of Pregnancy (MTP) Act, 1971, was enacted to permit safe abortions. The Indian Supreme Court also recognised marital rape as grounds for abortion, even though marital rape itself is not recognized in Indian laws, to advocate for women's reproductive rights. Article 21 of the Indian Constitution also upholds reproductive autonomy as part of the right to life and liberty.

In 2022, the Supreme Court of India in *X v. Principal Secretary* allowed a 22-week abortion, holding that marital status should not affect abortion rights. However, in 2023, in *X v. Union of India*, a woman was denied abortion, which extended to 24 weeks despite mental health concerns like depression and suicidal thoughts. The Court prioritised foetal rights over her autonomy, stating that she did not meet the eligibility under Section 3(2B) or Section 5 of the Medical Termination of Pregnancy Act, 1971.

The fight for abortion rights is a fight for dignity, equality, and the freedom to make decisions about one's own body. As both the United States and India face regressive turns, collective resistance and urgent legal reforms are essential to protect and reclaim this health right.



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