



WADING THROUGH THE OVERTURN

REPRODUCTIVE RIGHTS IN THE UNITED STATES

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BACKGROUND

After her request for an abortion was denied in Texas, Norma McCorvey, commonly known by her legal pseudonym “Jane Roe,” brought forth her case against the district government in 1969.^{1,2} She argued that restricting abortion access was a violation of individuals’ right to privacy and autonomy—and she won.¹ Though her 7-2 Supreme Court ruling was short-lived, having been overturned in 2022, it was a landmark case that set an international precedence for the rights of those who identify as women.³

The recent appointment of Justice Amy Coney Barret in 2020 ensured a conservative court, allowing the Republican agenda to instate major change.⁴ This was reflected in May 2022, when an early draft outlining the majority opinion, authored by Justice Samuel Alito, was leaked.⁵ Immediately, several states passed trigger laws that would strictly regulate abortion rights and these would be implemented should the Supreme Court overturn *Roe v. Wade*. As expected, following this draft, on June 24, 2022, *Roe v. Wade* and the constitutional right to abortion was overruled in a 6-3 landslide vote by the *Dobbs v. Jackson’s Women Health Organization (JWHO)* case, allowing individual states to regulate abortion rights.⁶ Several states including Alabama, Oklahoma, and Texas have placed abortion bans with no exceptions for rape

or incest, while others such as Georgia, Utah, and Florida have enacted restrictive gestational limits to abortion.⁷ Ultimately, the court ruled against abortion as a constitutional right on the basis that the right had not been deeply rooted in the country’s history.⁶

IMPLICATIONS ON HEALTHCARE

Roe v. Wade laid the foundation for advancements in the field of reproductive healthcare and its associated legal protections. Thus, the overturning has created a nebulous situation for access to contraceptives, prenatal genetic screening, along with miscarriage and ectopic pregnancy care.⁸ The laws enacted in numerous states place increased surveillance on people seeking abortion care, as well as the healthcare professionals providing the care. Consequently, healthcare professionals are situated in a legal and ethical dilemma when treating pregnant individuals in the aforementioned medical emergencies.⁹ For instance, Texas law criminalizes abortion after the detection of cardiac activity, even in medical emergencies.¹⁰ However, the federal Emergency Medical Treatment and Labor Act, initiated under the Biden administration, remains fully in effect, meaning hospitals must provide treatment to pregnant patients in an emergency situation.¹⁰ In response to this bill, Texas Attorney General Ken Paxton filed a lawsuit against the policy—as of November 12, 2022, the case is still under review.^{25,26} These unclear guidelines and contradictory laws can make it difficult for healthcare professionals and patients alike to navigate dire situations.

Additionally, the right to contraceptive use may be threatened, as the right to abortion was an extension of the right to contraceptives.¹⁰ Although the majority opinion of several Supreme Court Justices emphasized that prior cases would not be threatened, Justice Thomas wrote that the court should reconsider cases concerning the right to privacy, including *Griswold v. Connecticut* —the case legalizing contraception for married couples.¹¹ Medications with alternative uses of inducing abortions are also under scrutiny, impacting the treatment of cancers, arthritis, and autoimmune diseases. Following Arizona's abortion ban, a 14-year-old rheumatoid arthritis patient's prescription refill for methotrexate —an essential medication for arthritis management— was denied, highlighting the extensive scope of impact that *Roe v. Wade* has had on healthcare.¹² Healthcare professionals will now need to navigate various legal frameworks in addition to the minefield of ethical and professional quandaries.

IMPLICATIONS ON THE RIGHTS FOR THOSE WHO IDENTIFY AS WOMEN AND THOSE WHO ARE CAPABLE OF PREGNANCY

The overturning of *Roe v. Wade* has had global implications on the privacy and autonomy of individuals who identify as women and others capable of pregnancy. Scholars argue that this new ruling has reduced these individuals to reproductive bodies, with their bodily integrity and right to accessible healthcare dictated by the government.¹³ It begs the question of what comprises the autonomy of individuals who identify as women, and has further implications about the extent to which governments intervene in personal health decisions.

Moreover, under the USA Health Insurance Portability and Accountability Act, sensitive health information cannot be disclosed without patient consent, except when required under judicial orders.¹⁴ Legal difficulties arise when unexplained miscarriages, stillbirths, or ectopic pregnancies occur.¹⁵ In 2021, after a stillbirth, a 15-year-old girl was forced to undergo an exhaustive investigation into her personal and digital life. Similarly, another woman was detained for 36 hours after her stillbirth.¹⁶

Additionally, Dr. Leah Torres details her experience as a physician in Alabama, a state where abortions are outright banned.²⁷ Physicians are scared and will no longer treat patients who are actively going through miscarriages.²⁷ Patients who are bleeding and at risk for sepsis due to pregnancy complications are being turned away from care due to legal fears.²⁷ Dr. Torres herself even had her medical license temporarily suspended for “unprofessional conduct” when she made public opinionated statements about reproductive rights.²⁸ These legal repercussions mark an area of uncertainty in reproductive care and fosters fear amongst individuals capable of pregnancy and health providers alike.^{27,28}

Though affecting all individuals capable of pregnancy, abortion inaccessibility is prejudiced in nature, impacting ethnic minorities, individuals of low socioeconomic status (SES), and vulnerable populations disproportionately.¹³ Estimates suggest that over subsequent years, this ruling will lead to a 21% increase in pregnancy-related deaths, and a 33% increase of pregnancy-related deaths in Black patients specifically.^{13,15} Additionally, individuals of low SES bear the heaviest burden of this ruling, as they are often unable to provide for their children, further fueling the poverty cycle.¹⁶ Social determinants such as SES play an integral role in healthcare impact and can clarify the breadth of the impact of this ruling.¹³

FURTHER IMPLICATIONS

Due to the USA's extensive global influence, the effects of overturning *Roe v. Wade* are not isolated, depriving low- and middle-income countries that receive global health assistance. In 2017, the Trump administration expanded the Global Gag Rule —a government policy requiring foreign organizations receiving government funding to agree not to provide, refer for, or promote abortion as a method of family planning— from its previous iteration.¹⁸ The overturning of *Roe v. Wade* will solidify the USA's stance on abortion and reproductive care, most likely leading to the withdrawal of funds from the USA to support foreign non-governmental organizations providing abortion care.¹⁷

Contrarily, Latin America is seeing a trend in the decriminalization of abortion, known as the “green wave.” The organized social mobilization of abortion rights activists in Latin America has passed the green wave to the USA, as activists adopt the colour green in their protests.²⁰ After the legalization of abortion in Argentina, Mexico passed legislation that decriminalized elective abortion in the first 12 weeks of pregnancy, and Colombia legalized abortion within the first 24 weeks of pregnancy.^{19,20}

Furthermore, the overturning of *Roe v. Wade* will detrimentally affect medical education, impeding future physicians' ability to provide safe, evidence-based clinical recommendations to patients.²² Out of 6,007 current USA obstetrics and gynecology residents, 43.9% will lack in-state abortion training.²³ Consequently, the treatment of a series of pregnancy complications in which abortions are medically indicated will be limited.²² Abortion training is also necessary in teaching professionalism through competencies such as humanism, patient autonomy, and supersession of patient needs over physician self-interest.²⁴

Moreover, *Dobbs v. JWHO* may exacerbate the healthcare disparities and physician shortage that already exist in the USA. With no option but to carry pregnancies to term, an increased number of healthcare professionals —a disproportionate number of whom are also carrying a pregnancy to term— will be on parental leave or travelling for abortion care.²⁵ Further inequities may arise in personal and patient interests, as medical students decide to pursue clinical training in states with accessible abortion care, exacerbating clustering in certain areas of the USA.²²

CONCLUSION

The overturning of *Roe v. Wade* impacts not only the physical and psychological health of individuals who identify as women and/or are capable of pregnancy, but also their autonomy and right to privacy.^{13,15,17} Further, it has changed global perspectives in healthcare, justice, and political landscapes and is an area that continues to be heavily debated and discussed.

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