

FACTSHEET | SEPTEMBER 2022

Q&A: How International Law Protects Abortion Access in the US

On June 4, 2022, the United States Supreme Court issued a ruling in *Dobbs v. Jackson Women's Health Organization* that ended the constitutional right to abortion in the US. Following the ruling, many states have moved to ban abortion and issue new restrictions on abortion care.

This factsheet answers questions about protections for abortion under international law. Over the last few decades, multiple human rights treaties have been developed that, together, establish reproductive autonomy as a human right.

1. What human rights treaties has the US ratified?

There are nine [core international human rights treaties](#) that together establish standards for the protection and promotion of human rights. The US has ratified three: the International Covenant on Civil and Political Rights (ICCPR), the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD), and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

These treaties are binding, and as such they require the US to comply with its international human rights obligations, one of which is ensuring access to abortion. Additionally, the US has signed but not ratified other relevant treaties, including 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 defeat those treaties' object or purpose.

2. Who enforces these treaties? How do they hold the US accountable?

Implementation of the human rights treaties is monitored by treaty bodies, including the Human Rights Committee (which monitors the ICCPR), the Committee on the Elimination of Racial Discrimination (CERD), and the Committee against Torture. Treaty bodies periodically review States parties for their compliance with their treaty obligations. The treaty bodies undertake a variety of [activities](#), including reviewing States parties reports, issuing concluding observations and recommendations, considering complaints, and conducting inquiries. For example, in August 2022 the [CERD's concluding observations](#) specifically called on the US to take all necessary measures — at the federal and state level — to provide safe, legal, and effective access to abortion in line with its international human rights obligations.

3. How do these treaties protect abortion access?

Access to safe and lawful abortion services is firmly rooted under a broad range of rights that these treaties protect, including the rights to life, non-discrimination, privacy, and freedom from torture.

Right to life

Though the term has been co-opted and distorted by the anti-abortion movement in the US, the **right to life** as it exists in human rights law “concerns the entitlement of individuals to be free from acts and omissions that are intended or may be expected to cause their unnatural or premature death, as well as to enjoy a life with dignity.” Abortion bans clearly violate the right to life by forcing more individuals to seek unsafe abortions, which leads to greater maternal mortality rates. The Human Rights Committee has [clearly stated](#) that as part of ensuring the right to life, states “should not introduce new barriers” to abortion and “should remove existing barriers that deny effective access by women and girls to safe and legal abortion.” Under the ICCPR, all rights, including the right to life, attach at birth. In fact, an [amendment](#) to extend the right to life to fetuses was explicitly rejected when the treaty was negotiated.

Right to non-discrimination

The human rights treaties the US has ratified also expressly establish the **right to non-discrimination**. The Human Rights Committee has issued [authoritative guidance](#) explaining that interference with pregnant individuals' access to reproductive health care, including failure to ensure that pregnant people do not have "to undergo life-threatening clandestine abortions," violates their right to non-discrimination. Abortion restrictions also perpetuate [racial discrimination](#) and disparities in health outcomes. As the [CERD noted](#), abortion restrictions have a "disparate impact" on racial and ethnic minorities.

Right to privacy

The **right to privacy** also protects abortion access. Article 17 of the ICCPR states that "[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation." In examining abortion restrictions in other countries such as Ireland and Peru, the Human Rights Committee has repeatedly determined that abortion bans constitute arbitrary state interference in pregnant individuals' privacy.

Right to freedom from torture

Finally, the **right to be free from torture and other cruel, inhuman, or degrading treatment or punishment** is one of the strongest and most consistent principles across human rights and international law. Denying access to abortion can cause severe mental and physical suffering that can rise to the level of torture, especially in cases of rape or incest, or when the pregnant person's health is in danger. The Committee Against Torture has also condemned third-party authorization requirements, restrictions on access where laws are unclear, and conscientious objections by physicians or clinicians.

Recommendations

The US must do more in order to comply with its human rights obligations, including:

- **Take immediate steps, including through federal and state legislation and executive action, to guarantee effective access to affordable, legal, and quality abortion care.**
- **Permanently repeal [abortion restrictions on US foreign aid](#), such as the Helms Amendment, Siljander Amendment, and Global Gag Rule, to ensure that development assistance and global health funds provide safe and quality abortion care and information.**
- **Protect pregnant people from criminalization related to pregnancy and pregnancy outcomes, including miscarriages, stillbirths, and abortions.**
- **Address racial discrimination in laws, policies, and practices regarding reproductive health care.**