

FACT SHEET: U.S. ABORTION LAW IN GLOBAL CONTEXT

Across the globe, countries are liberalizing national laws to legalize abortion. And international and regional human rights bodies have repeatedly recognized that access to safe and legal abortion is central to women's autonomy and reproductive health. Meanwhile, in the United States, states are escalating efforts to enact restrictive and punitive abortion laws, pushing abortion access out of reach for many, including and especially people in marginalized communities.

Despite this reality, as part of their strategy to further restrict abortion in the United States, abortion opponents often characterize current U.S. abortion laws as being far more permissive than the rest of the world and urge policymakers to enact bans and further restrictions on abortion access in order to bring the United States more in step with "international norms" on abortion.¹ This Fact Sheet challenges this false characterization and explains how recent efforts to restrict and in some cases ban abortion in the U.S. are wholly out of step with the global trend and contravene international human rights requirements.²

Current Status of Abortion Law and Access in the United States

The U.S. Supreme Court has repeatedly upheld the constitutional right to abortion established in *Roe v. Wade*³ and reaffirmed in *Whole Woman's Health v. Hellerstedt*.⁴ Yet, 21 states severely restrict access to reproductive health care, and policymakers are passing increasingly restrictive and punitive laws and policies that shut down clinics and impose medically unnecessary regulations that have the effect of shaming people seeking abortion for their decisions.⁵

In 2019, states introduced over 350 bills restricting abortion access, 46 of which were enacted.⁶ These include pre-viability bans on abortion,⁷ such as laws banning abortion around six weeks of pregnancy.⁸ States have also outlawed the procedure that is the standard of care for abortion after approximately 15 weeks of pregnancy.⁹ In addition, states have enacted bans on abortion for specific reason, including fetal diagnosis,¹⁰ and enacted and expanded regulations that target abortion providers with medically unjustified regulations which subject people seeking abortion to mandatory delays, multiple clinic visits, and medically inaccurate information.¹¹ While many of these provisions are the subject of litigation and several have been enjoined by courts, the number of abortion providers in the United States continues to decline, and at least six states have only one abortion provider.¹² Restrictions on abortion access particularly impact marginalized communities, including people living in poverty, women of color, and immigrants.¹³

Legal Status of Abortion Globally

81 
COUNTRIES
GLOBALLY ALLOW FOR
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In Europe, almost all countries have legalized abortion on request or broad social grounds. Most of these countries' laws impose varying gestational limits, and in a number of countries these limits are very similar to those in place in the United States. For example, the Netherlands has a 24 week limit, while Iceland has a limit of 22 weeks and Sweden has a limit of 18 weeks. Many countries, including those with lower gestational limits, allow for broad exceptions after the limit has expired, thus permitting abortion access later in pregnancy. Exceptions to gestational limits include for social or economic circumstances, risk to health, including mental health, or where a pregnancy is not viable.¹⁵

Canadian law places no national gestational restrictions on abortion.¹⁶ And abortion care is largely covered under Canada's publicly financed and administered health care system.¹⁷

Global Trend Towards Liberalization of Abortion Laws

For more than 60 years the global trend has been towards the liberalization of abortion laws and the legalization of access to abortion care. In contrast to the United States, countries around the world are continuing to liberalize their abortion laws and increase the grounds on which abortion is legal and accessible.

In the 25 years since the International Conference on Population and Development Programme of Action (ICPD), the first international consensus document recognizing reproductive rights as human rights, almost 50 countries have liberalized their abortion laws, expanding the grounds under which women can legally access abortion services.¹⁸

For decades, European countries have been at the forefront of this progress, and liberalization continues to advance across the region. Indeed, throughout 2018 and 2019, a wave of liberalizing reforms have swept across Europe. In this time frame alone, seven European jurisdictions have undertaken important law-reform processes to safeguard access to abortion and remove harmful access barriers. These include liberalizing reforms in Belgium, Cyprus, Iceland, Ireland, Germany, the Isle of Man, and North Macedonia.¹⁹ Liberalizing law reform processes remain underway in a number of other jurisdictions in the region.

For example, in May 2019, Iceland liberalized its abortion law legalizing abortion on request up until 22 weeks of pregnancy and thereafter when a woman's health or life is at risk.²⁰ During the parliamentary debate surrounding the legislation, the prime minister, other government officials, and legislators referred to the reforms as intended to guarantee and reflect in law women's rights to self-determination.²¹

Earlier, in December 2018, new legislation was adopted in Ireland legalizing abortion on request or when a woman's health and life are at risk and providing for the delivery of abortion care in Ireland.²² This followed the resounding result of the Irish constitutional referendum in May 2018, in which the Irish electorate voted overwhelmingly to repeal the constitutional ban on abortion.²³

Recognition under International Human Rights Law of Right to Safe and Legal Abortion

Alongside the trend towards liberalization of national laws on abortion, international human rights law recognizes and protects access to safe and legal abortion as central to women's autonomy and reproductive health.

In recent years, UN human rights experts and mechanisms have expressed concern about the impact of severe legal restrictions, barriers, and stigma on abortion access. They have called on governments to amend legislation to legalize abortion, lift barriers, remove criminal penalties, and prevent stigmatization of women and girls seeking abortion, so as to ensure effective access to safe, legal abortion services.²⁴

UN human rights treaty monitoring bodies have clearly established that when abortion is legal under domestic law, it must be available, accessible (including affordable), acceptable, and of good quality.²⁵ They have specified that states are obliged to abolish procedural barriers to abortion services, including third-party authorization requirements, mandatory waiting periods, and biased counseling.²⁶ They have also urged countries to provide financial support for those who cannot afford abortion services and guarantee the availability of skilled health care providers who can offer safe abortion services and ensure that provider refusals on the grounds of religion or conscience do not interfere with women's access to services.²⁷

Importantly, they have recognized that laws that prohibit abortion and thereby force women to choose between continuing a pregnancy and travelling to another country to access legal abortion services can cause anguish and suffering, noting the financial, social, and health related burdens and hardships that are placed on women in such situations.²⁸ They have repeatedly found that denials of access to abortion services can amount to violations of the rights to life, health, privacy, non-discrimination, and freedom from cruel, inhuman, and degrading treatment.²⁹ For example, in 2016 and 2017 the Human Rights Committee, which oversees implementation of the International Covenant on Civil and Political Rights (ICCPR), a treaty ratified by the United States, held that Ireland's laws banning abortion caused two women cruel and inhuman treatment by prohibiting them from obtaining abortion care in their own country and forcing them to travel to a foreign jurisdiction to access abortion care.³⁰

The Committee overseeing implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) has framed the right to abortion as an aspect of women's autonomy³¹ and emphasized that a State's failure or refusal to provide reproductive health services constitutes gender discrimination.³²

Most recently, in 2018, the UN Human Rights Committee underlined that the right to life includes the right to access safe and legal abortion.³³ The Committee stated that the right to life requires states to provide safe, legal, and effective access to abortion where the life and health of the pregnant woman or girl is at risk, or when carrying a pregnancy to term would cause the pregnant woman or girl substantial pain or suffering.³⁴ States may not introduce new barriers to abortion and should remove existing barriers that deny effective access by women and girls to safe and legal abortion.³⁵ States should likewise prevent the stigmatization of women and girls seeking abortion.³⁶

The UN human rights treaty monitoring bodies have made clear that countries cannot roll back rights once they have been established. A core human rights principle prohibits retrogression, which is a backwards step in law or policy that impedes or restricts the enjoyment of a right. The Committee on Economic, Social and Cultural Rights has particularly noted the importance of avoiding retrogressive measures in the area of sexual and reproductive health and rights, including the imposition of barriers to sexual and reproductive health information, goods, and services.³⁷

These international human rights bodies have recognized that safe and legal abortion services are essential for guaranteeing women's full range of human rights, including the rights to life, health, equality and non-discrimination, privacy, and bodily autonomy.

Endnotes

- 1 See, e.g., ANGELINA BAGLINI, GESTATIONAL LIMITS ON ABORTION IN THE UNITED STATES COMPARED TO INTERNATIONAL NORMS, CHARLOTTE LOZIER INST. 3 (2014), <https://s27589.pcdn.co/wp-content/uploads/2014/02/American-Reports-Series-INTERNATIONAL-ABORTION-NORMS.pdf>.
- 2 See also Martha F. Davis and Risa E. Kaufman, *Issue Brief: Truth is Truth: U.S. Abortion Law in the Global Context*, AM. CONST. SOC'Y FOR LAW AND POL'Y 6-12 (Aug. 2018), <https://www.acslaw.org/wp-content/uploads/2018/08/Davis-Kaufman-Issue-Brief.pdf>.
- 3 Roe v. Wade, 410 U.S. 113 (1973).
- 4 Whole Woman's Health v. Hellerstedt, 136 S. Ct. 2292 (2016).
- 5 See *State Abortion Policy Landscape: From Hostile to Supportive*, GUTTMACHER INST. (Dec. 11, 2018), <https://www.guttmacher.org/article/2018/12/state-abortion-policy-landscape-hostile-supportive/>.
- 6 This number is current as of July 15, 2019, according to legislation tracking and analysis by the Center for Reproductive Rights.
- 7 Alabama, Arkansas, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Texas, West Virginia, and Wisconsin all ban abortion pre-viability at 20 weeks or earlier with limited exceptions. See *State Bans on Abortion Throughout Pregnancy*, GUTTMACHER INST. (July 1, 2019), <https://www.guttmacher.org/state-policy/explore/state-policies-later-abortions>. These laws are being challenged in litigation and many have been blocked by the courts.
- 8 Iowa, North Dakota, Kentucky, Mississippi, Ohio, Georgia, Alabama, and Missouri have all passed legislation banning abortions at about six or eight weeks of pregnancy; six of these states enacted these bans in 2019 alone. These laws are the subject of ongoing litigation or will be challenged in forthcoming litigation. See H.B. 314, 2019 Leg., Reg. Sess. (Al. 2019); H.B. 126, 100th Gen. Assemb., Reg. Sess. (Mo. 2019); S. 2116, 2019 Leg., Reg. Sess. (Miss. 2019); H.B. 481, 2019 Gen. Assemb., Reg. Sess. (Ga. 2019); S. 23, 133d Gen. Assemb., Reg. Sess. (Ohio 2019); S. 9, 2019 Leg., Reg. Sess. (Ky. 2019); S. 359, 87th Gen. Assemb., Reg. Sess. (Iowa 2018); H.B. 1456, 63rd Leg. Assemb., Reg. Sess. (N.D. 2013); see also K.K. Rebecca Lai, *Abortion Bans: 9 States Have Passed Bills to Limit the Procedure This Year*, N.Y. TIMES (last updated May 29, 2019), <https://www.nytimes.com/interactive/2019/us/abortion-laws-states.html>.
- 9 Alabama, Arkansas, Kansas, Kentucky, Louisiana, Mississippi, Oklahoma, Texas, and West Virginia have all passed laws prohibiting the most common second trimester abortion procedure, dilation & evacuation (D&E), although the provisions have been challenged and most are temporarily enjoined. See *Bans on Specific Abortion Methods Used After the First Trimester*, GUTTMACHER INST. (July 1, 2019), <https://www.guttmacher.org/state-policy/explore/bans-specific-abortion-methods-used-after-first-trimester>.
- 10 Indiana, Kentucky, Louisiana, North Dakota, Ohio, and Utah have all passed laws prohibiting abortions based on a fetal diagnosis, although the provisions have been challenged and are temporarily enjoined in all states except North Dakota and Utah. *Abortion Bans in Cases of Sex or Race Selection or Genetic Anomaly*, GUTTMACHER INST. (July 1, 2019), <https://www.guttmacher.org/state-policy/explore/abortion-bans-cases-sex-or-race-selection-or-genetic-anomaly> (tracking the number of reason based abortion bans).
- 11 For an overview of barriers to access and their impact, see *Targeted Regulation of Abortion Providers*, GUTTMACHER INST. (July 1, 2019), <https://www.guttmacher.org/state-policy/explore/targeted-regulation-abortion-providers>; *Counseling and Waiting Periods for Abortion*, GUTTMACHER INST. (July 1, 2019), <https://www.guttmacher.org/state-policy/explore/counseling-and-waiting-periods-abortion>; Jenna Jerman et al., *Barriers to Abortion Care and Their Consequences For Patients Traveling for Services: Qualitative Findings from Two States*, 49 PERSP. ON SEXUAL AND REPROD. HEALTH 95 (2017).
- 12 At minimum six states are down to one clinic — North Dakota, South Dakota, Kentucky, Mississippi, West Virginia, and Missouri. See Sabrina Tavernise, *"The Time is Now": States are Rushing to Restrict Abortion, or to Protect It*, N.Y. TIMES (May 15, 2019), <https://www.nytimes.com/2019/05/15/us/abortion-laws-2019.html?action=click&module=Top%20Stories&pgtype=Homepage>.
- 13 See ALYSSA LLAMAS ET AL., JACOBS INST. OF WOMEN'S HEALTH, GEO. WASH. U., PUBLIC HEALTH IMPACTS OF STATE-LEVEL ABORTION RESTRICTIONS OVERVIEW OF RESEARCH & POLICY IN THE UNITED STATES 1, 18 (Apr. 2018), https://publichealth.gwu.edu/sites/default/files/downloads/projects/JIWH/Impacts_of_State_Abortion_Restrictions.pdf; Erin Durkin, *'Women will die': how new abortion bans*

- will harm the most vulnerable, *THE GUARDIAN* (May 19, 2019), <https://www.theguardian.com/us-news/2019/may/19/abortion-ban-alabama-women-of-color-poor>; Liza Fuentes, *Latina immigrant women's access to abortion: Insights from interviews with Latina Grassroots Leaders*, NAT'L LATINA INST. FOR REPRODUCTIVE HEALTH (Sept. 2010), <https://nciwr.files.wordpress.com/2011/01/nlirh-research-brief-sept2010-final1.pdf>.
- 14 *The World's Abortion Laws*, CTR. FOR REPROD. RIGHTS, <https://reproductiverights.org/worldabortionlaws> (lasted visited July 15, 2019).
 - 15 See *World's Abortion Laws Map: Law and Policy Guide: Gestational Limits-Comparative Law*, CTR. FOR REPROD. RIGHTS, <https://reproductiverights.org/law-and-policy-guide-gestational-limits> (last visited July 15, 2019).
 - 16 *The World's Abortion Laws (Canada)*, CTR. FOR REPROD. RIGHTS, <https://reproductiverights.org/worldabortionlaws> (lasted visited July 15, 2019).
 - 17 Canada Health Care Act, R.S.C.z 1985, c C-6 (Can.); HEALTH CANADA, CAN. HEALTH ACT ANN. REP. 2016 17-23 (2018), <https://www.canada.ca/content/dam/hc-sc/documents/services/publications/health-system-services/canada-health-act-annual-report-2016-2017/canada-health-act-annual-report-2016-2017-eng.pdf> (noting that abortion services are insured in all provinces and territories, but access to these insured services varies within and between jurisdictions across the country).
 - 18 *The World's Abortion Laws (Accelerating Progress)*, CTR. FOR REPROD. RIGHTS, <https://reproductiverights.org/worldabortionlaws> (lasted visited July 15, 2019); see also *Fact Sheet: Accelerating Progress: Liberalization of Abortion Laws Since ICPD*, CTR. FOR REPROD. RIGHTS, <https://reproductiverights.org/sites/default/files/documents/World-Abortion-Map-AcceleratingProgress.pdf>.
 - 19 *E-Bulletin: Reproductive Rights Developments in Europe: Round-Up of Abortion Law Reform in 2018 and a Preview of Prospective Developments in 2019*, CTR. FOR REPROD. RIGHTS (Ctr. for Reprod. Rights, Geneva, Switz.), Mar. 2019.
 - 20 Jelena Čirić, *Abortion Bill Passed in Icelandic Parliament*, ICELANDIC REVIEW (May 14, 2019), <https://www.icelandreview.com/news/abortion-bill-passed-in-icelandic-parliament/>.
 - 21 Vala Hafstað, *Abortion Bill Passes in Alþingi*, ICE. MONITOR (May 14, 2019 9:55 GMT), https://icelandmonitor.mbl.is/news/politics_and_society/2019/05/14/abortion_bill_passes_in_althingi/.
 - 22 Health (Regulation of Termination of Pregnancy) Act 2018 (Act. No. 31/2018) (Ir.), <https://data.oireachtas.ie/ie/oireachtas/act/2018/31/eng/enacted/a3118.pdf>.
 - 23 *Ireland's abortion referendum result in five*, IRISH TIMES, <https://www.irishtimes.com/news/social-affairs/ireland-s-abortion-referendum-result-in-five-charts-1.3509845> (last visited June 24, 2019).
 - 24 See *Breaking Ground: Treaty Monitoring Bodies on Reproductive Rights*, CTR. FOR REPROD. RIGHTS (2018), <https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/Breaking-Ground-2018.pdf> (summarizing jurisprudence from seven United Nations treaty monitoring bodies on reproductive rights, including standards on reproductive health information and contraception and abortion).
 - 25 See ESCR Committee, *Gen. Comment No. 22: on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, para. 11-21, U.N. Doc. E/C.12/GC/22 (2016).
 - 26 See e.g., Human Rights Committee, *Concluding Observations: The Former Yugoslav Republic of Macedonia*, para. 11, U.N. Doc. CCPR/C/MKD/CO/3 (2015); Committee on the Rights of the Child, *Gen. Comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health (art. 24)*, para. 31, U.N. Doc. CRC/C/GC/15 (2013); CEDAW Committee, *Concluding Observations: Hungary*, para. 31(c), U.N. Doc. CEDAW/C/HUN/CO/7-8 (2013); ESCR Committee, *Gen. Comment 14: The Right to the Highest Attainable Standard of Health (Art. 12)*, para. 12(d), 21, 34, U.N. Doc. E/C.12/2000/4 (2000); CEDAW Committee, *Gen. recommendation No. 24: Article 12 of the Convention (women and health)*, (20th Sess. 1999), at 363, para. 22, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008).
 - 27 See CEDAW Committee, *Concluding Observations: Austria*, para. 38-39, U.N. Doc. CEDAW/C/AUT/CO/7-8 (2013); Human Rights Committee, *Concluding Observations: Poland*, para. 23-24, U.N. Doc. CCPR/C/POL/CO/7 (Nov. 23, 2016); Human Rights Committee, *Concluding Observations: Italy*, para. 16-17, U.N. Doc. CCPR/C/ITA/CO/6 (May 1, 2017); Human Rights Committee, *Concluding Observations: Colombia*, para. 20-21, U.N. Doc. CCPR/C/COL/CO/7 (Nov. 17, 2016); Human Rights Committee, *Concluding Observations: Poland*, para. 12, U.N. Doc. CCPR/C/POL/CO/6 (2010); Human Rights Committee, *Concluding Observations: Poland*, para. 8, U.N. Doc. CCPR/CO/82/POL (2004).
 - 28 See *Siobhán Whelan v. Ireland*, Human Rights Committee, Commc'n No. 2425/2014, para. 7.5-7.9, U.N. Doc. CCPR/C/119/D/2425/2014 (2017); *Amanda Jane Mellet v. Ireland*, Human Rights Committee, Commc'n No. 2324/2013, para. 7.8, 7.10-7.11, 8, U.N. Doc. CCPR/C/116/D/2324/2013 (2016).
 - 29 See, e.g., Human Rights Committee, *Gen. Comment No. 36 (2018) on article 6 of the International Covenant on Civil and Political Rights, on the right to life*, para. 8, U.N. Doc. CCPR/C/GC/36 (Oct. 31, 2018); CEDAW Committee, *Gen. recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19*, para. 18, U.N. Doc. CEDAW/C/GC/35 (2017); CESCR, *Gen. Comment No. 22. The Right to the Highest Attainable Standard of Health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, para 10, UN Doc. E/C.12/GC/22 (2016).
 - 30 *Siobhán Whelan v. Ireland*, Human Rights Committee, Commc'n No. 2425/2014, para. 7.3-7.7,8, U.N. Doc. CCPR/C/119/D/2425/2014 (2017); *Amanda Jane Mellet v. Ireland*, Human Rights Committee, Commc'n No. 2324/2013, para. 7.4-7.6, 8, U.N. Doc. CCPR/C/116/D/2324/2013 (2016).
 - 31 See e.g., CEDAW Committee, *Concluding Observations: Sierra Leone*, para. 32, U.N. Doc. CEDAW/C/SLE/CO/6 (2014); CEDAW Committee, *Concluding Observations: New Zealand*, para. 35(a), U.N. Doc. CEDAW/C/NZL/CO/7 (2012).
 - 32 CEDAW Committee, *Gen. Recommendation No. 24: Article 12 of the Convention (women and health)*, at 360, para. 11, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008). See also *L.C. v. Peru*, CEDAW Committee, Commc'n No. 22/2009, para. 8.17, 9, 12(iii), U.N. Doc. CEDAW/C/50/D/22/2009 (2011).
 - 33 Human Rights Committee, *Gen. Comment 36 on the Right to Life*, para. 8, U.N. Doc. CCPR/C/GC/36 (Oct. 31, 2018).
 - 34 *Id.*
 - 35 *Id.*
 - 36 *Id.*
 - 37 ESCR Committee, *Gen. Comment No. 22: on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights)*, para. 38, U.N. Doc. E/C.12/GC/22 (2016).